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Elimination of all forms of religious intolerance

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the elimination of all forms of intolerance and of discrimination based on religion or belief, prepared by Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 54/159 of 17 December 1999.

* A/55/150 and Corr.1-2.
** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 8 September 2000 so as to include as much updated information as possible.

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Interim report by the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief

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I. Introduction

1. At its forty-second session, the Commission on Human Rights decided, by resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental actions in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures for such situations.

2. Pursuant to this resolution, the Special Rapporteur has submitted 14 reports, in some cases with addenda, to the Commission on Human Rights since 1987. Reports since 1994, including the present one, have been submitted to the General Assembly in accordance with its resolution 54/159.

II. Report on communications sent by the Special Rapporteur and replies received from States since the publication of the report submitted to the Commission on Human Rights at its fifty-sixth session

3. This report covers a total of 39 communications (including an urgent appeal to the Islamic Republic of Iran) sent to 25 States: Afghanistan (2), Azerbaijan, Bulgaria, China (3), Egypt (3), Georgia (2), India (2), Indonesia (4), Iran (Islamic Republic of), Israel, Jordan (2), Kazakhstan, Kuwait, Lebanon, Myanmar, Nigeria (2), Pakistan, Philippines, Russian Federation, Sri Lanka, Saudi Arabia, Turkey (2), Turkmenistan (2), Uganda and Yemen.

4. The report also concerns the replies of States to the communications, on the one hand those sent in the context of the preceding report, submitted to the Commission on Human Rights at its fifty-sixth session (nine States: Azerbaijan, Brunei Darussalam, China, India, Indonesia, Iran (Islamic Republic of), Russian Federation, Ukraine and Viet Nam); and, on the other hand, those sent in relation to the allegations contained in the present report (10 States: Azerbaijan, Egypt, Georgia, India, Iran (Islamic Republic of), Kuwait, Russian Federation, Sri Lanka and Turkey).

5. In accordance with his working methods and the rules governing his mandate, the Special Rapporteur wishes to point out that communications sent within the past two months have not been summarized in the present report if the deadline for the States concerned has not yet expired (Bulgaria, Georgia, India, Indonesia, Jordan, Kazakhstan, Myanmar, Turkey and Yemen) or, of course, if a State has not yet replied. The Special Rapporteur wishes to stress that Kuwait replied on 24 July 2000 to a communication from the Special Rapporteur dated 17 July 2000. This communication and Kuwait's reply have therefore been reflected in this report. The Special Rapporteur wishes to thank Kuwait, in particular, for responding so promptly.

6. The Special Rapporteur also considers the constraints imposed this year on special rapporteurs reporting to the General Assembly entirely inappropriate and counterproductive. The decision to make the deadline for submission of reports the end of July 2000 (contrary to the traditional deadline, the end of September) shows a total lack of understanding of, and even indifference to, the working methods of special rapporteurs. Although the Commission on Human Rights ended its fifty-sixth session in April 2000, the Special Rapporteur was requested this year to submit a report to the General Assembly on his activities covering a maximum period of three months (May-July 2000), a requirement which is not likely to allow for high-quality work and makes it difficult to prepare consistent reports. In the case of the mandate on religious intolerance, fewer observations and replies could be addressed in the present report than in previous years because of the short period of time covered and the working methods appropriate to the mandate. The special procedures involved must not be reduced, either partially or totally, to a merely formal operation.

7. The Special Rapporteur wishes to point out that all States, without exception, have cases and/or situations of discrimination or intolerance in respect of religion or belief, although of different types and degrees. The strengthening of the resources at his disposal would enable the Special Rapporteur to fulfil his mandate to prepare a world report on freedom of religion or belief. Meanwhile, pending the achievement of this objective, the Special Rapporteur has tried to cover the problems or intolerance and discrimination that reflect the situation throughout the world.

Afghanistan

8. Because of the climate of intolerance and religious discrimination in Afghanistan resulting from the Taliban policy, religious minorities, in particular the Sikhs, are beginning to flee the country. These departures are reportedly due to Taliban measures to force conversion to Islam or to place restrictions on women, such as confining them to their homes or requiring them to wear the *burqa* in public. Moreover, on 19 March 2000, the Ministry for the Promotion of Virtue and the Prevention of Vice announced on Radio Shariat that the celebration of Nowruz, the first day of the Persian solar new year, was anti-Islamic. On 20 March 2000, Taliban soldiers reportedly pursued and assaulted a crowd of people who had gathered to celebrate Nowruz, near the capital at Khair Khana and at the Sakhi shrine at Kabul.

Saudi Arabia

9. On 24 April 2000, at Najran, security forces reportedly confronted members of the Ismaili community. According to the Saudi press agency, these incidents were linked to the arrest of a sorcerer, which apparently led to Ismaili demonstrations. The confrontation with security forces reportedly resulted in the death of one person and the wounding of four others. Other sources of information claim that the Ismailis were actually protesting against the closing of an Ismaili mosque by the religious police.

10. In its reply, Saudi Arabia stressed its sincere willingness to cooperate with the Special Rapporteur's mandate and to provide explanations regarding the above-mentioned allegation. Saudi Arabia said that the information that had been spread by some press agencies on the case in question was imprecise; in reality, this was a passing event that had been exaggerated all out of proportion by certain parties, although the Saudi authorities had immediately offered clarifications on the incident through various press media. Saudi Arabia presented the following account of the facts. Information had reached the security forces about the illegal practice of sorcery on a wide scale by inhabitants of the kingdom, provoking reactions from a large number of citizens and residents. Following repeated complaints about these unacceptable and illegal activities, on 22 April 2000 the authorities allowed security agents to arrest the person concerned on the basis of an official arrest warrant, in order to investigate the complaints. This person's house was searched, and during this operation one of the individuals present opened fire on the security officers, one of whom was seriously injured. In addition, a group of individuals, taking advantage of the situation, went to the home of the emir of the region to demand the release of the sorcerer; they opened fire in the direction of the emir's home, killing one guard and wounding three others. Saudi Arabia stressed that this was a case of disturbing the peace, endangering the lives of others and violating the laws and regulations in force. From the circumstances, it seems, according to Saudi Arabia, that no ideological or religious objective was involved. Moreover, the citizens of the Ismaili sect are free, like other citizens, to practise their prayers and religion, and they have their own mosques. The person in question in the above-mentioned incident was arrested for sorcery, a practice forbidden by law in Saudi Arabia. According to Saudi Arabia, this had nothing to do with the person's membership in the Ismaili sect, whose adherents enjoy the same rights as others, and are subject to the same obligations. With regard to reports of the closing of an Ismaili mosque, Saudi Arabia stated that this allegation was groundless and incorrect; Ismaili mosques are still open and Ismailis may continue to go about their business freely and unhindered.

Azerbaijan

11. Following their dismissal in 1999 by the director of the gas refinery Azerbaijan Qaz E'mali Zavodu because of their beliefs (see document E/CN.4/2000/65, para. 14), a group of Jehovah's Witnesses reportedly filed a suit with the Prosecutor's Office. The Azerbaijani trade union of oil and gas industry workers is said to have replied, with regard to those complaints, that these employees had spread the beliefs of the Jehovah's Witnesses, who were operating illegally in Azerbaijan. It was reportedly decided, therefore, that these actions were unconstitutional and should be punished by dismissal. The company also filed a complaint on the grounds of illegal religious activity, and an administrative committee is said to have decided in favour of the claim. The committee declared the employees guilty of proselytism and of holding illegal religious meetings, and it reportedly ordered them to pay a fine. The newspaper *Ganjlik* published an article on these dismissals and is said to have mentioned the names of the employees and to have called them "dogs", "predators", and "slaves of

enemy forces" with "poisoned minds" who should be "thrown out of Azerbaijan".

12. In September 1999, the authorities allegedly decided to expel nine members of the Baptist congregation. The Prosecutor's Office is said to have submitted a report supporting this decision.

13. Azerbaijan replied as follows:

> The Prosecutor's Office has announced that, since the beginning of 1999, M. Makarenko, A. Mamedova, A. Makhmoudova, S. Gadjigaribova, G. Nasraddinova and O. Pritouliak, six employees of an Azerbaijani gas refinery, began to practise propaganda activities to promote the religious sect Jehovah's Witnesses; they distributed religious tracts and tried to convert others to their beliefs. Providing free materials to their colleagues, they organized study groups during working hours, to which they invited other employees. By spreading the ideas, objectives and purposes of their religious sect, they actually created a religious circle. Over time, the religious activities of the above-mentioned company employees became more open. Their participation in religious meetings held behind closed doors were no longer a secret from anyone.
>
> On 1 September 1999, the employees of the plant met in a general assembly to consider the activities of the employees who were members of the sect, trying to convince them to give up their illegal and inappropriate activities. Noting that these employees were becoming increasingly separated from the other workers, that they were boycotting the group activities organized by the staff, that they were showing an increasing indifference towards their work and were trying not to form friendships with their colleagues, whom they despised, the workers who spoke up during the meeting said that this demonstrated the harmful effect of the religious sect. With regard to the Jehovah's Witnesses as a sect, those who spoke also pointed out that they preached non-recognition of the State, its laws and its symbols, and rejected military service and other civic duties. Some also noted that this sect authorized its members to take part in all sorts of illegal activities and actions promoting destabilization of the State. The General Assembly therefore proposed to the six employees that they should renounce religious sectarianism and promise not to continue their activities.
>
> Instead of complying, the employees in question refused to turn away from their chosen path, and even expressed the intention of redoubling their efforts. Following the discussion, the general assembly of plant workers thus took the decision to demand that the director dismiss the six employees who were members of the Jehovah's Witnesses sect.
>
> In accordance with articles 70 (y) and 72 (v) of the Labour Code of Azerbaijan, which establishes the penalties for administrative infractions committed by an individual during working hours and on the work premises, the director of the plant decided to dismiss the six employees.
>
> After the Procurator's Office of the Karabakh district in Baku had verified the evidence concerning the activities of the workers who were members of the sect, it was established that the persons in question had actually committed the infractions set forth in article 202, paragraph 1, of the Administrative Code of Azerbaijan, and an administrative action was therefore taken against them.
>
> During the inquiry, it also appeared that the activities of the Jehovah's Witnesses in the district were not limited to the refinery. Among other things, it was established that the members of the sect met regularly in an apartment located in an apartment building in Lokbatan. These meetings, which were also attended by minors, were organized by the occupants of the apartment, Remi and Galina Remiev. In addition to the propaganda that they were spreading at various religious meetings, the members of the sect collected money on the pretext of asking for charity. Administrative action was also taken against Remi and Galina Remiev on the basis of the available evidence.
>
> After considering the case, the district administrative committee took the required decisions in the context of administrative actions.
>
> On 3 January 2000, the persons against whom the judgements had been made appealed against the administrative committee's decision of

9 December 1999 before the district court, without obtaining satisfaction. Following the decision of the district court, the persons in question applied to the court of cassation in Baku against the decision; that case has not yet been decided.

In addition, the former employees of the plant applied to the district court to be reinstated in their jobs at the plant. The civil proceedings are now in progress. Even before the case is considered by the court, however, the director of the refinery, at his own initiative, had reinstated the employees, who are now back at work.

14. The Special Rapporteur, while noting the need to ensure respect for legal provisions regarding working conditions, wishes to recall the international rules on freedom of religion and belief and to underline that restrictions on freedom to express one's religion or belief should be in line with international law.

China

15. In October 1999, Father John Gao Kexian, of the Diocese of Yantai, was reportedly taken into custody in Shandong for refusing to accept the control of the Catholic Patriotic Association. On 23 November 1999, Father Jiang Sunian, of the Diocese of Wenzhou, was reportedly arrested in Zhejiang in the context of a campaign by the Catholic Patriotic Association aimed at compelling Catholics to join it. In Hebei, late in November 1999, Bishop John Han Dingxiang was reportedly arrested in Shijiazhuang. Father Guo Yibao, Father Wang Zhenghe and Father Xie Guolin were also reportedly arrested in Hebei in 1999. Bishop James Su Zhimin, of Baoding, and Auxiliary Bishop Francis An Shuxin, of Zhengding, reportedly disappeared as long ago as 1996, while Bishop Julius Jia, of Zhengding, has reportedly not been seen since August 1999. In Zhejiang, in January 2000, Catholics were reportedly compelled, after having been kept in detention for several days, to sign Catholic Patriotic Association membership forms. The police reportedly threatened to have their children expelled from school if they refused. Non-official Catholic properties, including two churches, were reportedly destroyed. On 25 May 2000, Father Jiang Sunian (see above) was reportedly sentenced by a court in Wenzhou to a six-year term of imprisonment for unlawfully printing Bibles and other religious materials.

16. In December 1999, in Beijing, four Falun Gong leaders, Li Chang, Wang Zhiwen, Ji Liewu and Yao Lie, were reportedly sentenced to imprisonment, officially on charges of having organized and practised an unlawful cult, having caused the deaths of various persons, and having obtained and unlawfully disseminated State secrets. On 11 May 2000, 200 members of Falun Gong who were demonstrating in celebration of the birthday of the founder of the movement were reported to have been arrested immediately by the police. In mid-June 2000, a total of 35,000 Falun Gong members had reportedly been arrested and 84 of them officially sentenced to prison terms. In addition, 5,000 Falun Gong members were reportedly sent to re-education camps without having been tried.

17. In December 1999, Trinley Dorje, the seventeenth *gyalwa karmapa*, one of the most important Buddhist spiritual leaders, is reported to have left the Tibet Autonomous Region and gone to join the Dalai Lama in Dharamsala, India. His decision to leave is said to have been the result of restrictions imposed by the Chinese authorities in religious matters.

Egypt

18. On 31 December 1999, in El-Kosheh, following a Christian merchant's refusal to sell fabric on credit to a Muslim, the Muslim in question, with the help of his family, allegedly tried to provoke a fight. The merchant and his relatives reportedly decided to avoid confrontation, and went to lodge a complaint with the police. However, a police officer reportedly fired on the complainants and proceeded to arrest them. On 1 January 2000, Muslim clerics reportedly called upon the faithful to fight the Christians. Nineteen Christians and two Muslims are said to have died in the ensuing rioting.

19. Egypt has provided:

(a) First, a newspaper article on the events in El-Kosheh and a copy of the decision of the Office of the Attorney-General of Egypt containing the charges as finalized after investigation by that office. The decision involves 96 persons charged with various crimes, including murder, theft and sabotage;

(b) Second, an extract from a document, taken, apparently, from a statement indicating, far too briefly, the main forms of action taken by the Government in

order to contain and prevent events such as those described above.

20. The Special Rapporteur regrets the lack of effort and care taken over this reply, which is no reply at all, and requests Egypt to communicate its views and comments on the allegations summarized above.

21. According to another communication from the Special Rapporteur, the Supreme Religious Court in Cairo declared the Baha'i faith a dangerous heresy in 1925. In 1960, all Baha'i assemblies were reportedly dissolved, their property and other assets confiscated, and their religious activities prohibited. Nonetheless, Baha'is supposedly remained free, as individuals, to practise their faith, in accordance with the freedom of religion that is guaranteed for all under the Constitution. To this day, however, the Baha'i community is said to be subjected to constant close surveillance. Baha'is are reportedly not allowed to meet in groups, especially for religious observances, and their literature is destroyed. It is alleged that they cannot legally celebrate their marriages, which are deemed to constitute concubinage, while the children born of these unions are regarded as illegitimate.

22. According to a third communication, since May 2000 a hate campaign has been waged in Cairo by extremists against the author Haidar Haidar, who is accused, together with his publishers, the Ministry of Culture and liberal intellectuals, of blasphemy because of his novel *A Feast of Seaweed*. According to information from a variety of sources, this affair is being politically exploited by Muslim extremists, especially the Muslim Brotherhood, in the context of the coming legislative elections.

23. Egypt has replied:

> Concerning the campaign against the Minister of Culture and the Syrian author, Haidar Haidar, when the General Assembly of Houses of Culture decided to publish a play entitled *A Feast of Seaweed*, the newspaper *The People* (formerly published by the Labour Party, whose activity has been suspended) took advantage of the opportunity to launch a media campaign against Ministry of Culture officials for publishing material that was secular in nature and was also, according to the paper, contrary to religious values and principles.
>
> While the paper's management attempted to justify their provocative position on the grounds that they were upholding religious convictions, their real motives appear to have been rooted in an attempt to win electoral support with a view to the prospective legislative elections, in which the Labour Party intends to participate.

Concerning measures taken to prevent extremists from taking over mosques, Egypt has the following to say:

> Management of all mosques and shrines has been centralized in the hands of the Ministry of Awqaf (Islamic Endowments). That Ministry now has responsibility for 50,000 mosques and 10,000 shrines;
>
> Every person not expressly authorized to do so is prohibited from mounting a mosque pulpit and delivering a sermon, inasmuch as the law requires a statement from the Ministry of Awqaf;
>
> There have been various judicial measures aimed at thwarting any attempt to make use of mosques for unlawful purposes.

Russian Federation

24. On 11 August 1999, in St. Petersburg, the Jehovah's Witnesses reportedly applied for a permit to rebuild a religious centre. On 22 November 1999, the Governor's office allegedly replied that, in the first place, the St. Petersburg Jehovah's Witnesses had enough religious centres to meet their needs, and in the second place, because of the state of public opinion in the city, it would be "inexpedient" to open an additional centre.

25. The Russian Federation has replied:

> The matter referred to in the Special Rapporteur's letter is exclusively technical in nature and is unrelated to the issue of freedom of religion. For the Special Rapporteur's information, the facts are as follows.
>
> Block 3A, at 18 Pogranitchnika Garkovogo Street in St. Petersburg, is a former municipal building, now vacant, that has been acquired by the head office of the congregation of Jehovah's Witnesses. On 15 August 1999, the congregation applied to a number of the city's subdivisions and administrative services for authorization to

renovate the building throughout and turn it into a public meeting hall and place of worship.

This application produced a series of responses from the various municipal authorities. In general, the authorities took the position that since the building in question was located in a residential area and in the immediate vicinity of housing complexes, permission to renovate the building and change its type of occupancy should be subject to the applicability of all regulations and requirements governing building on municipally-owned land. Those regulations and requirements specify, inter alia, that green spaces must be preserved, that additional water supply and drainage pipes must be installed, that access routes must be suitably reconfigured, and that certain urban planning work must be carried out. Furthermore, the authorities considered that the freely expressed views of the residents of the area should be taken into account. Accordingly, a ruling was issued to the effect that a survey should be conducted to determine what the local residents thought of the prospect of a public place of worship on their doorstep.

Agreement was reached in May 2000, whereupon the City of St. Petersburg's Urban Planning and Architecture Committee authorized the head office of the congregation of Jehovah's Witnesses to proceed with preliminary studies with a view to the renovation of the building referred to above.

At the present time, now that a new municipal administration has taken office following the recent election of the Governor of St. Petersburg, a number of documents relating to the renovation of the building are undergoing further review by the municipal authorities.

Georgia

26. On 17 October 1999, a mob led by Bassilists (followers of the teachings of a priest excommunicated by the Georgian Orthodox Church) is alleged to have perpetrated a violent attack on 120 Jehovah's Witnesses, including women and children, during a religious service in Tbilisi. The police were called, but reportedly refused to protect the Jehovah's Witnesses, 15 of whom are said to have been hospitalized. These events were reportedly filmed and subsequently broadcast by the local media. The victims are said to have lodged a complaint with the Office of the Public Prosecutor.

27. Georgia has provided the following reply:

> On 29 February 2000, the Permanent Mission of Georgia received an official reply from the Deputy Secretary of the National Security Council on Human Rights Issues of Georgia, which states that, on 17 October 1999, a group of Bassilists indeed reportedly attacked Jehovah's Witnesses. Based on this fact, on 18 October 1999, proceedings were instituted by the Investigation Department of the Ministry of Internal Affairs of Georgia.
>
> A number of investigation activities have been carried out and 100 witnesses have been examined. However, additional work which should be done still demands continuation of the case. As soon as further information is available, it will be immediately forwarded to you.

India

28. In November 1999, in the state of Orissa, the Government reportedly adopted an order in the form of an amendment to the act on freedom of religion, prohibiting all conversions without prior permission from the local police and the district magistrate.

29. India has provided the following reply:

> The notification No. 63286 of 26 November 1999 issued by the Government of Orissa relating to the Orissa Freedom of Religion Amendment Rules, 1999, does not require a citizen wishing to convert to seek permission of the local police and the district magistrate. As per the amendment rule, only an intimation is required by way of prior information to the district magistrate. The purpose of the amended rule is to restrict forcible, unlawful, immoral and fraudulent inducement for conversion.

30. According to another communication from the Special Rapporteur, on 20 March 2000, in the village of Chatisinghpura, south of Srinagar, 36 Sikhs were reportedly murdered by Muslim extremists. In New Delhi, the Prime Minister's security adviser reportedly identified two extremist groups that may have been involved in this massacre, namely the Lashkar-e-Toiba and the Hezbul Mujahedeen.

31. Christian institutions and individuals have reportedly been the targets of violent acts of intolerance. In March 2000, a Capuchin institute is said to have been attacked in the city of Ghaziabad. In Surya Nagar, acts of vandalism were reportedly perpetrated against a technical training institute run by the Capuchin Fathers. In April 2000, in Haryanan, three nuns were reportedly assaulted while they were on their way to the Rewari Catholic church to celebrate Easter. In that same month, in Mathura, the assistant priest of Saint Dominic's Church and the principal of Saint Dominic's School were reportedly attacked. Again in April, in Kosaikoan, a priest and two nuns were reportedly injured in an attack against the Sacred Heart school and convent. Lastly, on 16 April 2000, a convent in Bijnor was reportedly attacked.

Indonesia

32. On 17 January 2000, in Mataram on the island of Lombok, 12 churches and a number of Christian-owned properties were reportedly destroyed, and the Christian population had to flee to Bali. After the army had intervened and order had been restored, signs of provocation reportedly reappeared, such as the presence of hog carcasses in mosques. On 6 May 2000, in the village of Akidri, in the district of Halmahera Island, North Maluku, rioting reportedly resulted in the destruction of a church and the houses of 10 Christian families. Similar attacks reportedly occurred on the island of Buru. These attacks were reportedly organized by an extremist Muslim group known as Lashkar Jihad Sunnah Wal Jamaah, which is said to have threatened to carry *jihad* into the Molucca Islands.

33. In February 2000, radio station PTPN Rasitania, in Surakarta, broadcast an interview with a priest who stated that there were many similarities between the Qur'an and the Bible, and that the Prophet had been a Christian before becoming a Muslim. Following protests and accusations of blasphemy from the Surakarta Islamic Youth Front, the station was reportedly compelled to refrain from broadcasting for a week and made to apologize. The Alliance of Independent Journalists reportedly went to the police and presented a statement of protest against these measures. The police, for their part, are said to have arrested the priest who gave the interview, for contravening the criminal code's provisions on religious contempt.

Iran (Islamic Republic of)

34. The urgent appeal to the Islamic Republic of Iran referred to further information relating to allegations that three Baha'is, Sirus Dhabihi-Muqaddam, Hidayat-Kashifi Najafabadi and Ata'ullah Hamid Nasirizadih, had been sentenced to death. This matter had been the subject of a previous urgent appeal, which, together with the reply from the Islamic Republic of Iran, may be found in document E/CN.4/1999/58. On 3 February 2000, Mr. Dhabihi-Muqaddam and Mr. Najafabadi were reportedly informed orally that the verdict in their case, namely the death sentence, had been confirmed. The same court reportedly sentenced Manuchehr Khulusi to death as well. This person was reportedly arrested in Birjand eight months ago and transferred to the Mashhad prison because of his Baha'i activities.

35. The Islamic Republic of Iran has provided the following reply:

> I would like to inform you that the spokesman of the judiciary denied any confirmation of death sentence against Sirus Dhabihi-Muqaddam, Hidayat-Kashifi Najafabadi and Manuchehr Khulusi. He stated that the cases of the above-mentioned persons are still under consideration by the Supreme Court.

Israel

36. In recent years, Jewish prayer sites are reported to have been established, without official authorization, on Muslim graves, resulting in serious damage to religious antiquities. However, no legal proceedings have been instituted against those responsible. For example, at a location near the town of Modi'in, persons of the Jewish faith are alleged to have committed acts of vandalism against a Muslim burial ground and to have declared the place to be the burial site of Matityahu Ben-Yohanan. Near Holon, a synagogue has reportedly been built on the tomb of a sheikh in a Muslim cemetery after a Jewish religious group declared it to be the site of the tomb of Shimon Ben-Ya'akov. Also, young persons of the Jewish faith are said to have established a prayer site for the prophet Reuven on a Muslim site near Palmahim beach south of Tel Aviv.

Jordan

37. On 23 March 2000, Muslim extremists reportedly accused the writer Musa Hawamdeh of apostasy

because of his alleged criticisms of Islam and called for him to be put to death. The former member of Parliament Abdel Moneim Abu Zant is said to have declared that the writer had distorted the divine words of the prophet Joseph in Egypt. He apparently called the writer an apostate, demanded that he should repent or be declared an apostate by the authorities, and that his marriage should then be ended and he should be executed.

Kuwait

38. It is reported that, in January 2000, the writer Layla al-Uthman was sentenced to two months in prison for blasphemy on account of her book *Le départ* (Departure). This work was accused of using lustful language, apparently for images depicting the relationship of one sea wave to another. On 27 March 2000, an appeal court reportedly upheld the charges, but reduced the sentence of imprisonment to a fine of 1,000 Kuwaiti dinars.

39. Kuwait replied that Layla al-Uthman had been tried for breaking the country's laws and, specifically, for offending public decency because of the expressions used in her work *Le départ*. It was emphasized that this was not a case of religious intolerance. It was confirmed that, on 22 January 2000, the writer had been sentenced to two months in prison and that, on 26 March 2000, the sentence had been reduced on appeal to 1,000 dinars. The charges were offending public decency and the fundamental values of society.

Lebanon

40. On 3 January 2000, Sister Antoinette Zaidan, a Maronite, is alleged to have been raped and strangled by Muslim extremists while on her way to her convent. Her body was apparently discovered near the Science Faculty between Hadeth and Kfarchima. That same day, in the village of Kfar Abou in northern Lebanon, a group of Muslim extremists known as "Al-Takfir Wal Higra" reportedly murdered two Christian women, Salma Yazbeck and her pregnant sister-in-law Sarah Yazbeck. These extremists reportedly decapitated Sarah Yazbeck and dismembered her body. It is said that, on 1 January 2000, a bomb attack was carried out in the Christian village of Kolaia. In November 1999, Muslim extremists allegedly set fire to four churches: on 3 November, the Maronite Church of Saint George in Dekuwane was bombed, killing the deacon, Chafiq Rajha; on 14 November, an identical attack was perpetrated against the Orthodox Church of Saint Mikhail in Tripoli; on 16 November, the Church of Haoush Hala in Zahle came under machine-gun fire; and, for several days in November, rockets were fired at the Church of Aishie in southern Lebanon, even though worshippers were inside the building.

Nigeria

41. It is reported that, on 21 February 2000, in Kaduna, the Christian community demonstrated against the imposition in this state of the Sharia. Their peaceful demonstration apparently led to clashes between Christians and Muslims. On 22 February, at least 400 people were killed. On 22 May, in Kaduna, renewed inter-religious clashes are said to have broken out, killing at least 100 people. Several churches and mosques were reportedly set alight. On 23 May 2000, for the first time in the state of Kaduna, a priest was killed — Father Clément Ozi Bello appears to have been executed by Muslim fanatics.

Uganda

42. On 17 March 2000, the bodies of at least 500 members of the Movement for the Restoration of the Ten Commandments of God are said to have been discovered by the police in a church near Kanunga. It seems, in this instance, to have been a collective suicide. On 27 March 2000, in Rugazi, the police reportedly discovered the bodies of another 70 members of this movement in the garden of an official of the organization. On 2 April 2000, in Kanunga, Vice-President Specioza Kazibwe announced that at least 1,000 members of the Movement for the Restoration of the Ten Commandments of God had died, while its leaders were apparently still alive.

Pakistan

43. On 26 April 2000, in Khanewal, in the central Punjab province, Farrukh Barjees Tahir, a lawyer and district Vice-Chairman of the Pakistani Shiite Muslim Party and his clerk were reportedly assassinated by two unidentified individuals. This attack apparently occurred three years after the assassination in Khanewal of the lawyer's father, at the time Vice-Chairman of the aforementioned party. In 1997, two members of a Sunni extremist group were arrested and prosecuted in connection with this case.

44. It is reported that, on 17 March 2000, in Saeedabad, a suburb of Faisalabad, at least 200 Muslim extremists attacked a Christian community as a punishment against Ashiq Masih, who had apparently decided to return to the Christian faith after his conversion to Islam. The police were alerted and intervened, but arrested Ashiq Masih on the orders of the Deputy Commissioner of Faisalabad. It is claimed that the latter was acting on a complaint by a Muslim extremist. The accused was reportedly detained in the Faisalabad district prison, although no appropriate investigation was conducted. It is said that the family of Ashiq Masih also constantly receives death threats.

Philippines

45. Since March 2000, on the island of Mindanao, Muslim extremists have reportedly been creating a climate of intolerance against the Catholic community. The extremist group Al Harukatul is alleged to have taken pupils and teachers from the Tumahugong Catholic School hostage. Furthermore, in the town of Jolo, there are said to be posters calling on Christians to convert to Islam.

Sri Lanka

46. On 17 May 2000, the Liberation Tigers of Tamil Eelam are alleged to have organized a bomb attack against a Buddhist temple in Batticaloa, in which 22 civilians were killed.

47. Sri Lanka replied:

> A powerful bomb was set off by the Liberation Tigers of Tamil Eelam (LTTE) at around 5.30 p.m. on Vesak day (15 May), the holiest day of the Buddhist calendar, killing 16 civilians, mostly of the Tamil community, and 6 security force personnel. The blast also injured more than 75 civilians. The bomb went off in the eastern town of Batticaloa, near the Mangalarama Buddhist temple, where a Vesak celebration was being attended by a large number of civilians from both the Sinhala and Tamil communities. The day also marked the first time Vesak Poya was declared an international holiday by the United Nations.
>
> The President of Sri Lanka strongly condemned this barbaric act by the ruthless terrorist group LTTE, which is fighting against a democratically elected Government in order to carve out a mono-ethnic State in Sri Lanka. The President also placed on alert civil defence committees already set up in different parts of the country in order to protect civilians and prevent violence. The blast in the eastern town of Batticaloa, where the main Sinhala, Tamil and Muslim communities have been living harmoniously, seemed an attempt by the LTTE to trigger an ethnic backlash and bolster their claim for a separate State.
>
> The LTTE's attacks on innocent civilians and Buddhist temples and Muslim mosques began many years ago. The attack on the Temple of the Sacred Bo Tree at Anaradhapura on 14 May 1985 killing 120 civilians including a Buddhist monk, the killing of 30 Buddhist monks and 4 civilians at Arantalawa on 2 June 1987, the assassination of the chief priest of the Dimbulagala Temple on 26 May 1995, and the attack on and killing of 103 Muslims at prayer at the Jumma and Hussainia mosques in Kattankudy, Batticaloa, on 3 August 1990 are a few examples of LTTE brutality. Like the Vatican for the Christians and Mecca for the Muslims, Buddhists hold sacred the Temple of the Tooth Relic at Kandy. LTTE bombed this Buddhist shrine and UNESCO-designated World Heritage Site on 25 January 1998.
>
> The aim of the LTTE in these cases seemed to be to stall the effort by the Government and democratic parties in Sri Lanka towards a political solution to the ethnic issue by aggravating the ethnic disharmony through provoking different religious communities (Buddhists and Muslims) in Sri Lanka. There is no doubt that Buddhists, Hindus and Muslims have been deeply shocked by this brutal attack, but no religious society acted with commendable restraint.

Turkmenistan

48. On 21 June 1999, in Gyzylarbat, members of the National Security Committee are reported to have arrested Annamammedov Yazmammed, a Jehovah's Witness, in order to take him to the office of the director of this congregation. Annamammedov Yazmammed was allegedly threatened with physical violence with the intention of forcing him to renounce his faith and to reveal the names of the Jehovah's Witnesses in Gyzylarbat. It is claimed that he was

eventually beaten because of his refusal to comply. On 22 June 1999, he was reportedly sentenced by the Gyzylarbat court to 12 days' administrative detention for insulting the members of the National Security Committee. On 23 July 1999, Annamammedov Yazmammed is said to have been sentenced to 10 days' administrative detention, again because of his refusal to yield to the pressure of the National Security Committee. This scenario was apparently repeated on 7 October 1999. On 19 October 1999, the wife of Annamammedov Yazmammed was allegedly arrested by the National Security Committee in order to force her to sign a declaration of renunciation of the Jehovah's Witness faith.

49. On 14 November 1999, in Ashgabat, the authorities are reported to have ordered the demolition of the only Seventh Day Adventist church in Turkmenistan. It appears that this congregation was registered in 1992 and obtained permission to build its church from the President of Turkmenistan. However, following the revision of the Act on religion in 1997 (making registration of a congregation conditional on the number of its members, the requirement being 500), this community was apparently stripped of its official status. Despite several attempts, the Adventists were reportedly unable to obtain the re-registration of their community.

50. It is alleged, that on 14 November 1999, the National Security Committee ordered a raid on the Baptist congregation of the Council of Evangelical Baptist Churches during the Sunday sermon. On 13 February 2000, the same committee reportedly interrupted a private religious meeting organized by the Baptist pastor Vitaly Tereshnev, on the grounds that this meeting was illegal. The pastor was apparently fined and his passport confiscated. On 2 February 2000, the Baptist pastor Anatoly Belyayev is said to have been arrested by members of the National Security Committee while he was peacefully performing his religious activities. On 11 March 2000, this pastor and his family were reportedly deported to Moscow. On 13 March 2000, the Senkin and Shulgin families, active members of the Baptist congregation of the town of Mary, are also alleged to have been deported.

51. In March 2000, the Protestant pastor Shokhrat Piriyev was reportedly forced to leave Ashgabat on the pretext that his residence permit was not valid.

52. In addition, it is reported that no civilian alternative to military service is provided for conscientious objectors, who are apparently liable to imprisonment under the Penal Code.

Turkey

53. On 1 March 2000, two Christians (originally Muslims who converted to Christianity), Necati Aydin and Ercan Sengul, members of the Izmir Fellowship of Jesus Christ, are said to have been arrested as they sold and distributed Bibles and other Christian literature in Kemalpasa, near Izmir. The prosecutor reportedly accused them of forcing people to accept the Bibles and of insulting Islam. It seems the local mufti submitted a report to the prosecutor explaining that the material confiscated from the two Christians did not contain any anti-Islamic elements. However, it was apparently emphasized that passages in Aydin's personal notebook concerning the meaning of "Allah" and "Jehovah" and other names for God were the essence of falsehood and slander against religion. These arrests reportedly occurred one day after the broadcast on channel D, on Ugur Dundar's *Arena* show, of a television programme on Christian missionary sects. This programme appears to have propagated the message that Christianity is a threat.

54. Turkey replied that, according to the information transmitted by the Ministry of Justice, Mr. Aydin and Mr. Sengul had been acquitted, on 11 May 2000, by the Kemalpasa criminal court.

* * *

55. The replies by States to the communications sent in the context of the report submitted to the Commission on Human Rights at its fifty-sixth session are set out below.

Azerbaijan

56. With regard to the case of the Jehovah's Witness Ibrahim Ikrameddin Oglu Yuzbekov (see document E/CN.4/2000/65, para. 13), the Government of Azerbaijan explained, inter alia, that:

> Based on information received by the police station in Khachmas district, on 9 August 1999, concerning the illegal religious activities of I. Yuzbekov, the services of the Ministry of the Interior began an investigation. In the course of

their enquiries, it transpired that I. Yuzbekov was present in Azerbaijani territory illegally, having failed to complete the registration procedures in his place of residence. Furthermore, it was established that I. Yuzbekov was engaging in religious propaganda, in violation of the procedures established by the Azerbaijani Act on freedom of religion. Instead of drawing the obvious conclusions from the justified observations of the police regarding his violation of Azerbaijani law, I. Yuzbekov was rude and insubordinate towards the police officers. The documentation gathered by the police concerning the administrative offences committed by I. Yuzbekov was transmitted to the Khachmas district court. Having found I. Yuzbekov guilty of violating the regulations on registration of passports, the court fined him 16,500 manats (or US$ 4). At the same time, the court sentenced I. Yuzbekov to 15 days' detention for rudeness and insubordination in respect of the legitimate orders of the police. The other documentation gathered on the activities of I. Yuzbekov and the publications that he was carrying are currently in the Khachmas district prosecutor's office.

57. With regard to the dismissal of Jehovah's Witnesses because of their beliefs (see para. 11 above), the information transmitted is reflected in the context of the reply of Azerbaijan to the communication summarized above. It was stated, inter alia, that:

> In the film entitled *Tarigat*, which was broadcast on the independent channel *Space*, on 16 August 1999, information was provided on certain religious organizations engaging in illegal activities in the Republic of Azerbaijan and, in particular, on the disobedience of the members of the religious sect of Jehovah's Witnesses towards the authorities. It was in response to questions by the television channel *Space* that the press service of the Ministry of National Security turned over the relevant documentation concerning the illegal activities of this sect.

Brunei Darussalam

58. With regard to the status of women in Brunei Darussalam (see document E/CN.4/2000/65, para. 19), the Government replied as follows:

In the Government's view, the allegations have failed to reflect Brunei Darussalam's existing policies, which safeguard and strongly uphold the importance of family institutions and harmony. To this effect, as the role of women is crucial, any discrimination against women is contrary to such policies. In addition, women in Brunei Darussalam enjoy equal opportunity in education, employment and economic activities, as well as the right to health care. Women hold many senior government positions and are involved in the policy-making process of the country. Concerning the allegations that some laws in Brunei Darussalam that are based on Koranic precepts are not gender-sensitive, the Government would like to state that the family law for Muslims is currently governed by the Religious and Kadis Court Act, CAP. 77 (1955). This Act contains the provision that a married woman may apply to a Kadi for a divorce. At the same time, the Government is in the process of legislating provisions in line with shariah law, in the form of the draft Emergency (Islamic Family Law) Order, which will further enhance the position of women with regard to matters concerning the rights of Muslim women, including matters relating to marriage, custody of children, property and inheritance. As for the non-Muslims in Brunei Darussalam, they are still governed by English family law (Matrimonial Causes Act) and the country's Emergency (Married Women) Order, 1999, as well as the Emergency (Guardianship of Infants) Order, 1999. With regard to the allegation that the Nationality Act provides that only men transmit citizenship, the Government would like to clarify that the Brunei Nationality Act provides that the minor child of any subject of His Majesty may be registered as a subject of His Majesty upon application made in the prescribed manner by a parent or guardian of the child. The Government would also like to point out that this has no religious connotation. In this regard, the Government wishes to emphasize that any limitation prescribed by law is necessary to protect our own national interests and sovereign rights.

China

59. In response to allegations of a campaign to promote atheism in order to undermine the influence of Tibetan Buddhism (see document E/CN.4/2000/65, para. 27), China stated that such allegations were belied by the facts, which were as follows:

> The Chinese Government persistently pursues a policy of religious freedom. The State Constitution provides that citizens have the right to believe in a religion or not to believe in any religion. The Government protects the right of religious groups and of citizens to engage in normal religious activities. It has not conducted atheist propaganda in places of worship nor among the faithful.

60. With regard to the allegations relating to the province of Hebei, the arrest of a Catholic priest, Yan Weiping, and his death and the arrest of a student, Wang Qing, who had attended an illegal seminary (ibid.), the Government explained that Yan Weiping had died of a heart attack and that the allegations that he had been arrested and his body found in the street were pure lies. As for Wang Qing, it said that inquiries conducted by the relevant public security services had led to the conclusion that no person of that name existed. The Government also noted that its legislation guaranteed freedom of religion, while forbidding religion to be used as a way of disturbing the social order, stating that:

> Nobody in China is liable to judicial proceedings nor to imprisonment by the authorities on account of his or her belief in a religion, nor can a person be arrested for exercising his or her religious rights in his or her own home. At the same time, a citizen who has broken the law cannot escape judicial proceedings by reason of his religion.

61. With regard to Falun Gong (ibid.), China replied as follows:

> The Chinese authorities have numerous reasons for banning Falun Gong, whose leader, Li Hongzhi, rashly declares that medicines should not be taken to treat disease, advocates a "global explosion", proclaims that "the end is nigh", poisons people's minds, dupes the masses and accumulates wealth. Figures so far available show that nearly 1,400 people have died as a result of practising Falun Gong and that a very large number of its practitioners are mentally disturbed, with broken homes and scattered families. Moreover, the Falun Gong organization steals secret State documents, attacks press organs, harasses the public services, disrupts traffic and seriously disturbs the peace, thus undermining social stability. There are many factors showing that Falun Gong is a sect hostile to society, science and the people and represents a serious danger to society. The vast majority of the population, including believers, are resolutely opposed to this sect's activities and their harmful effects. The relevant Chinese authorities have, to general satisfaction and with the support of people from all walks of life, banned Falun Gong in accordance with the law.
>
> The measures taken by the Chinese Government against Falun Gong have the basic aim of protecting the people's rights and freedoms. The Chinese Government respects universal human rights principles and works tirelessly for the promotion and protection of the human rights and fundamental freedoms of the Chinese people, particularly their right to the freedom of religious belief. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other international human rights agreements provide support for rights and freedoms, but they also expressly provide that the exercise of such rights should be restricted in order to protect national security, public safety, public order, public health and the rights and freedoms of others. The Falun Gong organization, which champions a heresy devoid of principles, constitutes a serious threat to the lives and safety of individuals and society. To show leniency to such a sect would be a travesty of civil rights. The banning of this organization by the relevant Chinese authorities does not constitute a violation of human rights or freedom of religion; its aim is to protect the human rights of the population as a whole, including those who have suffered from Falun Gong.
>
> It is normal for a State to combat organizations that put society, rights and the public interest at risk. The Chinese Government has acted just like any other country. In today's

world, sects multiply and proliferate like a cancer in society. No responsible government can adopt a laissez-faire attitude to sects which threaten not only the people's physical and mental health but also public order. Throughout the world, countries such as Japan, Australia, Belgium, Germany, France and the United Kingdom are tightening up their legislation and their supervisory mechanisms in order to keep a closer watch on sects. The measures taken by the Chinese Government, in accordance with the law, against the illegal activities of Falun Gong and its leader are such as any country would take. China has acted with full respect for the law and the action that it has taken in the vast majority of cases has been, above all, to persuade and educate followers of Falun Gong, not to take any coercive measures against them. So long as they leave the Falun Gong organization and do not get involved again in any of the sect's activities, they will be left undisturbed.

To help the Special Rapporteur to a better understanding of Li Hongzhi and the way in which Falun Gong is organized, we enclose a copy of a book entitled *Li Hongzhi and his Falun Gong: How they deceive the public and destroy lives*.

Russian Federation

62. With regard to anti-Semitic attacks (see document E/CN.4/2000/65, para. 35), the Russian Federation condemned the rampant anti-Semitism in many parts of the world, including countries with an established democratic tradition. As for the anti-Semitism that has occasionally surfaced in the Russia Federation but is rejected by society as a whole, stress was laid on the fact that the Russian authorities were showing firmness in dealing with extremist organizations that advocated exclusion based on national identity or religious convictions.

63. Reference was made to the priority given to such legislative measures as the bill brought before the State Duma in June 1999 to tackle political extremism and the current drafting of a bill to combat ultranationalism. Under a presidential decree, approval has been given to an advisory document on combating political and religious extremism in the Russian Federation, to provide support for a federal programme currently in preparation to cover the period 2000-2005. The Government of the Russian Federation has also approved a plan of action aimed at promoting tolerance and preventing extremism within Russian society.

64. During the autumn of 1998, the President and Government of the Russian Federation were unanimous in their strong criticism of the policies advocated by the member of parliament Albert Makashov and of the bid by the extremist organization Russian National Unity to hold its congress in Moscow. On 13 November 1998, the State Duma adopted a declaration on the inadmissibility of actions or policies that might damage relations between national groups in the Russian Federation. At the end of June 1999, the President again urged the Ministry of Justice of the Russian Federation to step up its struggle against political parties and other forces in the country that promoted extremist opinion and engaged in illegal and anti-constitutional activities. On 2 August 1999, during an interview with the Israeli Prime Minister, the President of the Russian Federation stated: "Our country's policy is to condemn anti-Semitism strongly and to combat ruthlessly all its various manifestations."

65. Attention was also drawn to the various measures taken to oppose the activities of Russian National Unity, including the prohibition of its holding its congress in Moscow or Belgorod, the banning of the organization itself and the removal of its status as an artificial person by the Butyrskii district court in April 1999.

66. In January 1999, the Procurator-General issued guidelines for various bodies in the Russian Federation on the action to be taken to prevent the dissemination of any literature bearing Nazi symbols. It was stressed that the effectiveness of this move was already obvious because the open sale of nationalist and extremist publications in towns up and down the country had practically ceased.

67. The authorities have publicly condemned, in the strongest possible terms, the acts of vandalism in Novosibirsk; an inquiry is under way. It was added that the local authorities were doing all they could to enable the Jewish community to live normally. In Moscow, investigations have been carried out after two explosions near the town's two synagogues. An inquiry is in progress. The Chief Rabbi of the main Moscow synagogue has stated his conviction that these attacks were not directly aimed at the synagogues and attributed them to the general increase in criminal

activity in the country. The law enforcement bodies are attempting to solve the incident in Tomsk and the inquiry has been placed under the direct control of the office of the Procurator-General of the Russian Federation. The Government states that the office took up 25 cases of incitement to national, racial or religious hatred in 1998 and 10 in 1999. Judgement has been passed in nine of those cases.

India

68. India replied in the following terms to the allegation regarding the status of women (see document E/CN.4/2000/65, para. 46):

Status laws applicable to the Muslim community would allow unilateral divorce for men, which would not be the case for women wishing to divorce (allegation)

(a) Among Muslims, marriages are governed by the Mohammedan Law prevalent in the country. Under the Mohammedan law, a Muslim husband may divorce his wife by the mere pronouncement of the word *talaq*. However a Muslim wife has much more restricted right to dissolve her marriage.

(b) However, by the Dissolution of Muslim Marriage Act, 1939 (8 of 1939), a Muslim wife is given the right to dissolve marriage on the following grounds: (i) if the whereabouts of her husband are not known for a period of four years; (ii) if the husband is not maintaining her for a period of two years; (iii) imprisonment of the husband for a period of seven years or more; (iv) failure on the part of the husband to perform his marital obligations, without a reasonable cause, for a period of three years; (v) impotency of the husband; (vi) the husband's insanity for a period of two years; (vii) if the husband suffers from leprosy or virulent venereal disease; (viii) if the marriage took place before she attained the age of 15 years and was not consummated; and (ix) cruelty. The Muslim Women (Protection of Rights on Divorce) Act, 1986 (25 of 1986) also provides protection to Muslim women in matters of divorce.

(c) Certain unwritten customary laws also help to ameliorate the position of Muslim women by permitting them to seek dissolution under the following forms:

(i) *Talaq-i-Tafwid*. This is a form of delegated divorce. According to this, the husband delegates his right to divorce in a marriage contract which may stipulate that, inter alia, on his taking another wife, the first wife has the right to divorce him.

(ii) *Khula*. This is a dissolution of agreement between the parties to marriage on the wife giving some consideration to the husband for the release from marriage ties. Terms are a matter for bargaining and usually take the form of the wife giving up her *mehr* or a portion of it.

(iii) *Muhurat*. Divorce by mutual consent.

(d) Regarding discriminatory provisions of divorce between men and women, it is the policy of the Government not to take any step regarding the personal laws of various communities until the initiative comes from the concerned community itself.

Status laws applicable to the Christian community, such as the Indian Divorce Act, would allow divorce for men on grounds of adultery, whereas women wishing to divorce would have to prove spousal abuse and certain categories of adultery (allegation)

The Government recently convened a meeting of leaders of various Churches, Members of Parliament, voluntary social organizations and others concerned to discuss the problem and the provisions of the draft Christian Marriage Bill, 2000, prepared by the Government. The Government is trying to bring in a comprehensive amendment to the personal laws of Christians relating to marriage and divorce in line with the changed socio-economic environment in the community.

In spite of the Sati Prevention Act and the Dowry Prohibition Act, religious traditions of sati and dowry affecting women's dignity and life do not appear to have been eradicated in some rural areas (allegation)

Unfortunately, a few incidents of sati have taken place even in the recent past and the practice of dowry is also prevalent in some sections of society in India. The process of social change, which is being actively pursued by the Government of India through various laws and their enforcement, takes time. The spread of education and increasing awareness about the dignity and status of women will lead to the eradication of such practices in the course of time.

69. With regard to allegations concerning the situation of Christians in India (ibid., paras. 45-48), the Government replied as follows:

A large number of violations have been committed against Christians and this is continuing (allegation)

Given the size and population of India, the number of incidents of violence against members of the Christian community were negligible up to 1996. There was some increase in the number of such incidents between 1997 and 1999. This may be attributed to the resentment in some organizations due to their perception that the conversion activities of the Christian missions in remote tribal areas and among less affluent sections of society were being carried out through allurements, coercion, etc. No matter what the cause was of these violent incidents, government authorities invariably took appropriate measures as required by the law. In many cases, such incidents of violence were normal law and order matters and it was purely a coincidence that the two parties involved happened to be from different communities. Unfortunately, this was given a communal colour by some sections of the media.

The team from the Union Home Ministry, which visited Gujarat, did not meet the Christian delegation in the State nor did it receive their representatives (allegation)

The objective of the high-level team from the Ministry of Home Affairs which visited Gandhinagar (Gujarat) on 30 December 1998 was to have consultations with the State government officials regarding measures taken for the safety and security of members of the Christian communities and to suggest remedial measures to maintain peace and communal harmony.

The Christian community continues to suffer from a climate of insecurity (allegation)

Following the incidents in Gujarat and Orissa, immediate steps were taken by the Government of India to restore confidence and to provide security. The Prime Minister himself visited Gujarat on 9 and 10 January 1999. A team of the National Commission for Minorities, which is a statutory body, also visited the state on three occasions and submitted reports. Action on the relevant points in its final report has been taken by the state as well as the central Government. In respect of Orissa, the Justice Wadhwa Commission of Inquiry, under a sitting judge of the Supreme Court, was set up to look into the incident of the killing of Graham Staines, an Australian national, and his two sons. Concurrently, an inquiry by the Central Bureau of Investigation (CBI) was also ordered. The Government of India has issued comprehensive guidelines for the maintenance of communal harmony and advisory statements are being issued to the state government from time to time. Further, central paramilitary forces are being provided to the states on specific request and a special force called the "Rapid Action Force" has been raised primarily to deal with communal riots. Intelligence inputs which have a bearing on communal harmony are being shared with concerned state governments to enable them to take timely preventive measures and financial assistance is also being provided to them for the upgrading and modernization of their police forces.

Militant Hindu groups are organizing hate campaigns against the Christians through the media, pamphlets and posters (allegation)

It is not correct to say that there is a hate campaign against the Christian community. Stray incidents of this kind cannot be construed as a general hatred directed against the Christian communities as a whole. Wherever such incidents come to light, action under relevant provisions of the law is being taken by the law enforcement agencies. Such incidents are also being

condemned by the majority community and the media.

Update on the Graham Staines murder case and the rape of nuns in Jhabua in Madhya Pradesh (allegation)

The report of the one-man commission of inquiry referred to in subparagraph (iii) above was submitted to the Government in June 1999. The report, along with the action taken report, was laid before both Houses of Parliament in November/December 1999. As per the finding of the inquiry, one Dara Singh was responsible for the murder of the late Graham Staines and his two sons. He was arrested by the state police on 31 January 2000 and is in judicial custody. The Central Bureau of Investigations inquiry is also progressing concurrently.

With regard to the rape of nuns at Jhabua in Madhya Pradesh, which took place on 22/23 September 1998, a case was registered under the Indian Penal Code against 26 persons who were found to be involved. Of the accused, 22 have been arrested and four are at large. A magisterial inquiry has also been conducted by the state government.

Christian girls and women have become the main target of Hindu militants (allegation)

This allegation is baseless and unfounded.

Incident on 30 June 1999 in Mumbai of vandalism against the Sacred Heart School at Worli by suspected Shiv Sena activists (allegation)

The details in respect of the incident of 30 June 1999 at the Sacred Heart School at Worli, Mumbai, are being collected from the Government of Maharashtra and will be sent as soon as received.

Incident on 2 September 1999 in which a Catholic priest, Father Arul Doss, was reportedly murdered by suspected Hindu militants (allegation)

Father Arul Doss was murdered in the village of Jamubani in Mayurbhanj District of Orissa on the night of 1-2 September 1999 by a group of about 15 persons. The Government of Orissa have informed that nine of the accused persons have been arrested and efforts are under way to seize the remaining culprits. It has been alleged that Dara Singh, the prime suspect in the Graham Staines murder case, who has since been arrested, was also involved in this crime. However, the truth will be known after the investigation is completed.

Incident on 8 October 1999 in the town of Dahod, Gujarat, in which Christian leaders from the Filadelfia Fellowship Church were reportedly attacked by Hindu militants (allegation)

According to available reports, four Christian priests, including one British, were arrested by the Dahod (Gujarat) police on charges of using abusive language against Hindu gods and motivating the tribal people to embrace Christianity at a musical programme organized at the Freeland Ganj locality of Dahod town. The programme was reportedly organized under the banner of World Vision. The priests were later released on bail. As such, no atrocity was committed against members of the Christian community in this case. Actions which may incite to communal disharmony or create a law and order problem are offences under Indian law.

India is a multiracial and multi-religious society and the tone of its policy is set in the preamble to the Constitution itself, which provides for a secular, democratic republic securing to all citizens justice, liberty, equality and fraternity without any discrimination on grounds of religion, caste, creed, sex and ethnic origin, etc. There are equal opportunities for all and members of various communities have lived and continue to live in harmony. The right to freedom of religion is enshrined under article 25 of the Constitution and the rights of minorities are protected under articles 26 to 30. Further, the Ministry of Social Justice and Empowerment is exclusively responsible for the development and welfare of minorities. The National Commission for Minorities has been set up to look into the interests of minorities under the administrative charge of the Ministry of Social Justice and Empowerment. The Minorities Cell functioning within the Ministry of Home Affairs addresses complaints of atrocities against minorities.

Indonesia

70. With regard to the case of the Muslim girl who converted to Christianity and disappeared for a period of time (see document E/CN.4/2000/65, para. 50), Indonesia has given a detailed account of the Court's conclusions in this case, which were as follows. In March 1998, an evangelist had placed the girl under the protection of a certain man after announcing that she had converted. The evangelist was therefore afraid of being punished by her family. The girl then stayed in seclusion without any outside contact, even with her family, until she enrolled in a Christian school in July 1998 under a false name. Meanwhile, the man who had taken responsibility for her had forced her to have sexual relations. On 23 September 1999 he was sentenced to eight years' imprisonment for rape of a minor and not on the basis of accusations of forced conversion or blasphemy.

Iran (Islamic Republic of)

71. With regard to the trial of members of the Jewish community and of Muslims (see document E/CN.4/2000/65, paras. 51-52), the Islamic Republic of Iran has regularly kept the Special Rapporteur informed. On 30 March 2000, the Islamic Republic of Iran submitted the following explanation:

> In accordance with the relevant laws and regulations, the accused persons enjoy the right to be defended by lawyers of their own choice. The competent court in Shiraz has announced that up to now they have not chosen their own lawyer(s). As stipulated in the relevant laws and regulations, in the absence of any chosen lawyer, the court will ask the Bar Association to appoint a lawyer to defend them. The first hearing session of the court for the trial of the said persons will begin on 13 April 2000.

72. On 4 July 2000, the Islamic Republic of Iran wrote as follows:

> Referring to your letter regarding the trial of a group of people (including Jews and Muslims) on charges of espionage, I would like to inform you that they were tried by the court in Shiraz in the presence of lawyers of their own choice. In accordance with the relevant laws, the court acquitted five owing to insufficient evidence, and sentenced 12 to imprisonment, owing to clear evidence and confession of the accused. The time spent in detention will be included in prison terms. However, the case is still open and the accused and their lawyers have the right to appeal during 20 days after the issuance of the verdicts. The verdicts of acquittal were issued for the following five persons: Tymor Rezaii, Hussein Qabileh, Nejatollah Brukhimnejad, Omid Teflin and Navid Balazadeh. The following 12 persons were sentenced to 2 to 13 years' imprisonment: Asher Zadmehr (13 years), Naser Levy Hayyam (11 years), Farhad Seleh (8 years), Javid Bent-e Yacoub (9 years), Shahrokh Paknahad (8 years), Hamid Teflin (13 years), Farzad Kashi (18 years), Ramin Fazam (10 years), Farzam Kashi (5 years), Ramin Nematizadeh (14 years), Ali-Akbar Safaie (2 years) and Mehrab Yusefi (2 years).

Ukraine

73. In reply to the allegations on the situation, legal and otherwise, in the area of freedom of religion and conviction in Ukraine (see document E/CN.4/2000/65, para. 98), Ukraine gave a detailed account of its international commitments (its accession to the European Convention for the Protection of Human Rights and Fundamental Freedoms) and its legislation (the Constitution and the Act of 23 April 1991 on Freedom of Conscience and Religious Organizations), which guaranteed, on the one hand, freedom of religion and conviction and any manifestation of them, while acknowledging certain restrictions, and, on the other hand, the principle of non-discrimination. It was stated that no one could be exempt from his or her obligations to the State, nor could one refuse to obey the law for reasons connected with his or her religious convictions. It was added that when military service was against a person's religious convictions it was replaced by another form of non-military service. Ukraine explained that legislation governing the exercise of the right to freedom of conscience and religion was currently under review. It stated that:

> As a result of the closer relations between the State and the Church that have developed since Ukraine attained independence, the number of religious organizations has grown by 10,321, a rise of 78.1 per cent. The increase was most marked in 1999, when 1,695 organizations were established, including 584 small independent communities. There are 23,543 religious organizations in Ukraine, representing 52

denominations. Autonomous religious movements have few adherents, but they enjoy the same rights and freedoms as other denominations. The number of religious communities originating in the national minorities has grown considerably. In January 2000 there were 655 communities comprising believers from 12 different denominations. Half of these — of which there are 305 more than in 1992 — are currently Muslim communities. The number of Jewish congregations has risen by 103, that of reformed communities (Hungarian Church) by 13 and that of German Lutheran churches by 36.

Viet Nam

74. With regard to the cases of the bonzes Thich Khong Than and Thich Tue Sy of the Unified Buddhist Church of Viet Nam (see document E/CN.4/2000/65, para. 99), Viet Nam replied as follows:

> Pham Ngoc An (Thich Khong Than) lives in Ho Chi Minh City. An was arrested on 6 November 1994 and convicted to five years' imprisonment for the acts committed in violation of articles 81 and 205 (a) of the Penal Code. Pham Ngoc An was released on 6 November 1998 and is now conducting his normal religious life at Lien Tri pagoda in Ho Chi Minh City.
>
> Pham Van Thuong (Thich Tue Sy) was arrested on 22 March 1984 and was sentenced to 20 years' imprisonment on the charges of activities in violation of article 73 of the Penal Code. Thuong was released on the occasion of the National Amnesty on 1 September 1998 and is now conducting his normal religious life at Gia Lam pagoda in Ho Chi Minh City.

* * *

75. The Special Rapporteur has still not received replies to some or all of the communications sent, in connection with the report submitted to the Commission on Human Rights at its fifty-sixth session, to the following 36 States: Afghanistan, Bangladesh, Bolivia, Bulgaria, Comoros, Côte d'Ivoire, Cyprus, Democratic People's Republic of Korea, Dominican Republic, Gabon, Greece, Indonesia, Iran (Islamic Republic of), Israel, Kazakhstan, Lao People's Democratic Republic, Malaysia, Maldives, Mauritania, Mexico, Mozambique, Myanmar, Nepal, Niger, Nigeria, Pakistan, Samoa, Saudi Arabia, Sri Lanka, Sudan, Tajikistan, Turkmenistan, Uganda, United Arab Emirates, Uzbekistan and Yemen.

III. Review of communications

76. Analysis of the communications makes it possible to identify the main problems and sources of intolerance and discrimination in the area of religion and belief. It makes it possible to confirm, in particular, the assessments made by the Commission on Human Rights at its most recent session in the framework of its resolutions. Among these resolutions, attention is drawn to resolution 2000/50 of 25 April 2000, on tolerance and pluralism as indivisible elements in the promotion and protection of human rights, in which the Commission expresses its full awareness that even at the onset of the twenty-first century, forces of aggressive nationalism, absence of religious tolerance and ethnic extremism continue to produce fresh challenges. Likewise, the Commission, in its resolution 2000/33 of 20 April 2000, on the Implementation of the Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief, notes with alarm that serious instances of intolerance and discrimination on the grounds of religion or belief, including acts of violence, intimidation and coercion motivated by religious intolerance, occur in many parts of the world and threaten the enjoyment of human rights and fundamental freedoms. In this regard, the Commission has a special interest in problems affecting religious minorities and practices that undermine the fundamental rights of women and discriminate against women. A review of the Special Rapporteur's communications makes it possible to highlight the following problems and concerns.

Extremism

77. Several communications transmitted in the framework of this report cite an ever-growing scourge, namely, religious extremism, whose primary victims are vulnerable groups, such as women and minorities. The case that epitomizes this is that of Afghanistan, where the Taliban, in the name of their own interpretation of Islam, but in reality using religion as a political tool in the interests of power, have taken an entire society hostage. This attempt at enslavement mainly affects women, who are relegated to a pariah

status and therefore afflicted by social, economic and cultural exclusion. Also specifically targeted by Taliban extremism are religious minorities and, of course, non-Muslim communities, whose religious identity is directly threatened by a policy of forced conversion to Islam.

78. Extremism is also manifested with varying intensity in Egypt, Georgia, India, Indonesia, Israel, Jordan, Lebanon, Nigeria, Pakistan, the Philippines and Sri Lanka, always through non-State entities, but in diverse forms and modalities and with different goals. Clearly, despite the good will of many States, it remains very difficult to contain and combat religious extremism. The active contribution of the international community outside and the civil society within remains crucial in this regard.

79. First, a distinction must be made between escalating political tensions culminating in extremism — such as in Pakistan between factions of different political sensibilities within a single religion, or in Sri Lanka, where the Liberation Tigers of Tamil Eelam exemplify ethnic extremism with political connotations — on the one hand and, on the other hand, the religious extremism that is rampant in these countries. It is also important to stress that the boundaries between these different forms of extremism are not always easy to define, especially because ethnic, religious and political forms of extremism may be combined.

80. Moreover, religious extremism can result from sheer religious fanaticism, where a given individual or group believes that he or it possesses the absolute truth and wishes to impose it on others. Examples may be found in Pakistan, where the fundamental freedom of any person to change his or her religion is not accepted; in Jordan, where any critical debate within a religion is rejected; in Egypt, where religious minorities are not tolerated; in Georgia, where diversity within a religion or belief is rejected; and in Israel, where religious sites are profaned by those of another religion in order to impose their absolute belief.

81. Religious extremism may use religion for political ends. For example, according to the communications from the Special Rapporteur, in India, the role of a religious minority in the educational, social and cultural fields, particularly among the least advantaged, has been questioned with a view to widening the electoral base of nationalist political parties of a religious character. Another case is that of the Molucca Islands of Indonesia, where an extremist group claims to be waging a holy war against the Christian community, but is in fact aiming at the destabilization of the democratic process, which is contrary to the interests of an entire oligarchy, particularly the military one linked to the former regime.

82. Religious extremism is also inter- and intrareligious, that is to say, it affects either communities not belonging to the same religion (for example, according to the communications from the Special Rapporteur, in India, Indonesia, Israel, Pakistan and the Philippines) or currents within the same religion (for example, in Georgia and Jordan).

83. Such extremism often targets inter- and intra-religious minorities (for example, according to the allegations of the Special Rapporteur, in Egypt and Georgia) and women (for example, according to a communication from the Special Rapporteur, atrocities against women in Lebanon).

84. Extremism is expressed through violence, both symbolic (discrimination against women and others) and physical (serious attacks against persons of a given religious faith, members of the clergy, places of worship and other religious institutions, and so on).

85. Of course, as the communications from the Special Rapporteur point out, no single religion has a monopoly on religious extremism. In this connection, the Special Rapporteur concurs with the position of the Commission on Human Rights, which, in its resolution 2000/84 of 26 April 2000, on defamation of religions, expresses its deep concern that Islam is frequently and wrongly associated with human rights violations and with terrorism. Likewise, as the Commission points out in this same resolution, negative stereotyping of religions in general is a matter of concern. The Special Rapporteur considers that religious extremism is an aberration to the extent that all religions are based fundamentally on the values of human rights, tolerance and non-discrimination. Certain interpretations and certain manipulations of people on the basis of religion have distorted it and wrongly associated it with extremism.

86. While extremism results mostly from non-State entities, that does not absolve States of their responsibility to guarantee rights, especially the security of persons under their jurisdiction, in

accordance with international law. It is therefore the responsibility of States, but also of the international community, to combat extremism, especially since it has an international dimension and scope.

Groups vulnerable to the policies, laws and practices of intolerance and discrimination

87. Apart from the question of extremism, many communications cite instances and situations of intolerance and discrimination against vulnerable groups, namely, women and minorities.

88. With regard to women, the communications transmitted by the Special Rapporteur mention practices affecting women's rights (for example, in Afghanistan, by extremists), and physical violence (for example, in Georgia and India), indeed, even murders (for example, in Lebanon). However, these are, of course, extreme situations and, to some extent, only the tip of the iceberg. Many other forms of discrimination against women, perpetrated by both the State and society, exist in all countries, regardless of their political, economic, social, religious and cultural characteristics. In this regard one may, for example, refer to the report of the Special Rapporteur on the situation in Bangladesh (addendum 2 to this report) and to the study by the Special Rapporteur entitled "Racial and religious discrimination: identification and measures" (A/CONF.189/PC.1/7).

89. Concerning minorities, the Special Rapporteur has already reviewed above the attacks resulting from extremism which affect these communities. It should be recalled that what is involved are violations committed against minority groups, either within the same religion or with reference to a different, majority religion.

90. The communications from the Special Rapporteur also cover the relations between States and religious minorities, as follows:

(a) Policies adopted by States with regard to some or all religious minorities, which may consist of placing them under total supervision or, at least, an attempt at absolute control (for example, according to the allegations of the Special Rapporteur in China with regard to clandestine Christian organizations that refuse to accept any interference by official patriotic associations;

(b) Legislative machinery put in place by the authorities aimed at restricting the activities of minorities (for example, according to the communications from the Special Rapporteur, in India, where the restrictions placed on conversions in one state that are, in fact, aimed at Christian proselytism of Hindus); and

(c) Conflicts in cases involving incidents between the security forces and members of minorities (for example, in Saudi Arabia) or arrests of members of a minority community (Islamic Republic of Iran, Turkey).

91. Problems arise also with regard to intolerance of minorities within a society (see the report of the Special Rapporteur on the situation in Turkey (addendum 1 to this report)), particularly the responsibility of certain media in the dissemination of a climate of intolerance.

92. With regard to minorities, the question of "sects" or "new religious movements" is very timely and sensitive, as shown by the numerous communications from the Special rapporteur on this subject. The two terms mentioned above are not enshrined in international law; each represents, in practice, a very clear statement of position. Quite frequently the term "sect" is used pejoratively, particularly in order to remove the epithet of "religion" from the communities concerned. Broadly speaking, it should be noted that this is the position of the adversaries of the "sects". On the other hand, the term "new religious movement" confers on the communities referred to above as "sects" the label of "religion". Note should be taken, in general, of the use of the enhancing term "new religious movement" either by the members of the "sects" or by their supporters. It follows from this brief overview that the approaches to the question of "sects" are hardly consistent with the criterion of objectivity and neutrality. In order to avoid these pitfalls, the Special Rapporteur decided to use the term "community of religion or belief". As reflected in the communications from the Special Rapporteur, serious problems are arising for these communities, which constitute minorities and therefore vulnerable groups in this instance. For the purposes of this report, the communities involved are, inter alia, the Jehovah's Witnesses, the Seventh Day Adventists, Falun Gong and the Movement for the Restoration of the Ten Commandments of God, in other words, communities very different from one another.

93. The difficulties facing these communities as identified by the Special Rapporteur arise at the level of relations with the State, in the form of an outright ban on the community (see the case of China); the refusal of registration (Turkmenistan); prohibitions against certain expressions of freedom of religion or belief, such as the refusal to allow the building of places of worship (Russian Federation); direct attacks on freedom of religion or even belief, such as all actions aimed at forcing a person to renounce his faith or belief (Turkmenistan); and, lastly, arrests and convictions (China); ill-treatment and even expulsions (Turkmenistan).

94. These minority communities may, furthermore, have confrontational relations with a society that perceives them as dangerous "sects" (Russian Federation, Azerbaijan). The media may also sometimes convey a message of rejection and hatred of them (Azerbaijan). Likewise, some communities may represent a danger to society, as in the cases of the collective suicides orchestrated by the leaders of the Movement for the Restoration of the Ten Commandments of God in Uganda.

95. Regardless of the cases and situations, States remain responsible for protecting these vulnerable groups — women and minorities — against intolerance and discrimination. Such responsibility applies also to the protection of society and its citizens against any abuses committed, in this instance, by communities of religion or belief, in the same way as any group and individual that breaks the law. The responsibility of States also implies the establishment and implementation of a legal arsenal, which, while ensuring respect for freedom of religion and belief, must make it possible to combat charlatanism, abuse of trust, corruption of minors, the illegal practice of medicine and, more generally, the use of freedom of religion and belief for unrelated purposes.

Defamation

96. Several communications from the Special Rapporteur deal with the question of defamation. The Special Rapporteur explained above (para. 85) his interest in Commission on Human Rights resolution 2000/84, which rightly points out the negative stereotypes affecting religions.

97. Nevertheless, as shown by the allegations in this report concerning Jordan and Indonesia, the question of defamation, addressed also through the question of blasphemy, is twofold. It has been noted that, very frequently, prohibitions against acts of defamation or blasphemy are misused for the purposes of outright censorship of the right to criticism and discussion of religion and related questions. In many cases, defamation becomes the tool of extremists in censoring and maintaining or propagating obscurantism. It becomes a weapon of war, particularly against vulnerable groups, be they women (see addendum 2 to this report, on Bangladesh) or ethnic or religious minorities (see the report of the Special Rapporteur on his mission to Pakistan (E/CN.4/1996/95/Add.1)), or simply non-obscurantist intellectual minorities. In any event, one must be very cautious in dealing with the question of defamation, displaying intellectual vigilance and wisdom in view of the primary aim of protecting and promoting human rights.

IV. In situ visits and follow-up procedure

98. The Special Rapporteur continued an important part of his mandate, namely, in situ visits. In that connection, two addenda to this interim report are before the General Assembly: one deals with the visit to Turkey from 30 November to 9 December 2000 and the other deals with the visit to Bangladesh from 15 to 24 May 2000. The Special Rapporteur wishes to thank the Governments of Bangladesh and Turkey for their cooperation during these visits.

99. The Special Rapporteur also received, on 30 March 2000, a positive response from Argentina to his request for a visit. The dates of that visit will be set as soon as possible.

100. This year, the Special Rapporteur asked to visit Nigeria. The Permanent Mission of Nigeria in Geneva informed him that a reply would be forthcoming as soon as the Government's decision was received.

101. Unfortunately, the Special Rapporteur notes the lack of response to his requests to visit the Democratic People's Republic of Korea, the Russian Federation, Indonesia and Israel. He would like to point out that the Commission on Human Rights, in its resolution 2000/33, again calls upon all Governments to cooperate fully with the Special Rapporteur, to respond favourably to requests from the Special Rapporteur to visit their countries and to give serious consideration to

inviting the Special Rapporteur to visit so as to enable him to fulfil his mandate even more effectively.

102. The Special Rapporteur wishes to emphasize that a number of States (having different political, economic, social and religious profiles) have already cooperated by receiving in situ visits: they are, in chronological order, China, Pakistan, the Islamic Republic of Iran, Greece, Sudan, India, Australia, Germany, United States of America, Viet Nam, and the two States most recently visited, Turkey and Bangladesh.

103. The Special Rapporteur also wishes to draw attention to his initiative designed to supplement these so-called "traditional" visits with visits to the main communities of religion or belief in order to start or pursue a direct dialogue on the Declaration of 1981 and all relevant issues relating to freedom of religion or belief and to consider solutions to the problems of intolerance and discrimination in that area. To that end, the Special Rapporteur visited the Holy See in September 1999 (see document E/CN.4/2000/65). This, inter alia, helped him gain a better understanding of the approach taken by the Roman Catholic Church to freedom of religion and belief, be enriched by the Vatican's experience concerning relations between communities in the area of religion and belief, and consider specific issues such as women, the family and education.

104. The Special Rapporteur naturally intends to continue this process with other religions such as Islam, Judaism, non-Catholic Christianity, Buddhism, Hinduism and others. He will try to understand the full diversity and richness of the currents that each religion represents while, if possible, identifying common values and approaches regarding fundamental issues relating to freedom of religion and belief, in the context of human rights.

105. Parallel to these visits, it is necessary to continue with the so-called "traditional" visits and with their specific follow-up procedure, which the Special Rapporteur introduced back in 1996, whereby each visit results in the sending of a follow-up table summarizing the Special Rapporteur's recommendations and inviting the State concerned to provide comments and any pertinent information concerning measures the Government has taken or is considering taking to implement the recommendations. Most of the States visited (China, Greece, India, Pakistan, the Sudan) have cooperated in this follow-up procedure; in fact, it is an instrument for continued dialogue between the Special Rapporteur and the Governments, and it has been encouraged by the Commission on Human Rights for all special procedures mandates concerning human rights. The Special Rapporteur is continuing his dialogue with the Islamic Republic of Iran to follow up the recommendations he made during his in situ visit. He would also like to point out that, in its concluding observations on that country, of 1 June 2000 (CRC/15/Add.123), the Committee on the Rights of the Child recommended the State party to take effective measures to prevent and eliminate discrimination on the grounds or religion or belief in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life; and to make every effort to enact or rescind, where necessary, legislation, to prohibit any such discrimination and to take all appropriate measures, including public education campaigns, to combat intolerance on the grounds of religion or other belief; endorsed the recommendations made by the Special Rapporteur on the question of religious intolerance following his visit to the State party (E/CN.4/1996/95/Add.2), and recommended that the State party implement them fully.

106. On 17 February 2000, the Special Rapporteur sent reminders to Germany and Australia concerning the follow-up tables sent on 28 September 1998; he is still waiting for a reply from them. Lastly, on 17 February 2000, the Special Rapporteur began the follow-up procedure with the United States of America and Viet Nam (see report on the visit to the United States of America (E/CN.4/1999/58/Add.1), sect. III; report on the visit to Viet Nam (E/CN.4/1999/58/Add.2), sect. IV). The Special Rapporteur encourages these States to cooperate fully in the follow-up to the in situ visits. In that connection, he recalls that the Commission on Human Rights, in its resolution 2000/86 of 27 April 2000, on human rights and thematic procedures, invited the Governments concerned to study carefully the recommendations addressed to them under thematic procedures and to keep the relevant mechanisms informed without undue delay on the progress made towards their implementation.

V. Contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

107. Pursuant to resolution 1999/78 on racism, racial discrimination, xenophobia and related intolerance and resolution 1999/39 on the implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, the Special Rapporteur was invited to participate actively in the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance by formulating recommendations concerning religious intolerance that would have a bearing on the Conference and by initiating studies.

108. To that end, he undertook a first study entitled "Racial discrimination and religious discrimination: identification and measures", the preparation of which was announced at the fifty-sixth session of the Commission on Human Rights.

109. In the above-mentioned resolution 2000/33, the Commission noted that the Special Rapporteur has undertaken a study on religious discrimination and racism and looks forward to its presentation at the first session, to be held in May 2000, of the Preparatory Committee for the World Conference and encourages the Special Rapporteur to contribute further to the preparations for the Conference, to be held in 2001, by forwarding to the United Nations High Commissioner for Human Rights his recommendations on religious intolerance which have a bearing on the Conference.

110. From 1 to 5 May 2000, the Special Rapporteur participated in the Preparatory Committee for the Conference and, in particular, submitted his study (A/CONF.189/PC.1/7).

111. In it, he explains that when the right to freedom of religion and the right to belong to an ethnic group or to a minority are infringed in the case of a single person or group of persons, the violation is not just a superimposition or ordinary addition of offences or discriminations. It is not just a question of multiple offences. The combination of the two offences creates a new, more serious, offence — an aggravated discrimination — which, while of varying intensity, is by its very nature a separate concept.

112. On the basis of the legal and factual elements of the issue of religious discrimination aggravated by racial discrimination, the Special Rapporteur draws the following preliminary conclusions:

(a) None of the international instruments studied contains any special provisions establishing a specific legal regime or special treatment covering acts of aggravated discrimination, particularly those that affect minorities;

(b) Nevertheless, a study of the various provisions leads to the conclusion that there is a body of sufficiently well-established rules and a set of principles shared by all the nations and all the States members of the international community, which suggests an openness to theoretical acceptance of a right to freedom from aggravated discrimination;

(c) Minorities are sometimes granted specific rights under the internal legislation and even under the Constitution. Yet, many forms of discrimination, particularly those relating to religion, are directly or indirectly enshrined in those Constitutions and affect ethnic groups in particular;

(d) A study of the facts has shown that the overlap between racial and religious discrimination is a common phenomenon that is especially grave and often has very tragic consequences;

(e) The instruments studied would appear to be out of phase with reality. At any rate, they do not appear to accept the full consequences of their own recognition of the links between race and religion.

113. The Special Rapporteur therefore recommends:

A. Strengthening protection against aggravated discrimination

114. **International protection**. It seems clear that legislative provisions, whatever their nature or origin, should anticipate and take into account the possibility of aggravated discrimination. The first step in strengthening international protection is to consolidate existing means and mechanisms. The international community's work could be reinforced by adopting the following measures:

(a) Existing instruments should anticipate the possibility of aggravated discrimination. It might be useful to begin working within the framework of existing mechanisms towards, for example, the

adoption of a resolution dealing specifically with aggravated discrimination;

(b) The Conference against discrimination could, within the context of its declaration and programme of action, devote some thought to aggravated discrimination;

(c) Protection against aggravated discrimination in the context of existing conventions and other instruments could be strengthened through review and follow-up procedures and through deadlines for consideration.

115. **Internal protection**. This will mean improving legal protection, in particular under criminal legislation:

(a) Each State should provide judicial guarantees to ensure that freedom of religion or belief and membership of an ethnic and religious group are protected in a concrete manner by explicit provisions. It would be desirable for some States to enact general legislation based on international standards;

(b) States must make efforts to enact legislation or to modify existing legislation, as appropriate, in order to prohibit all discrimination based on identification of individuals with multiple groups. Most importantly, positive criminal legislation should be enacted, not only imposing severe penalties on single forms of discrimination, but above all defining a new offence, that of aggravated racial and religious discrimination, which should carry a specific penalty, and naturally one that is heavier than that imposed for single forms of discrimination, whether religious or racial;

(c) Establishment of an independent equal-opportunity authority to monitor racial and religious discrimination.

B. Prevention of aggravated discrimination

116. **Education and training**. States need to ensure that, whatever the ethnic and religious make-up of the society, their education system is capable of observing the following principles, which form the basis of a policy striking at the roots of aggravated discrimination: encouragement through education and teaching; prohibition against segregating classes according to membership of ethnic and religious groups; condemnation of racism in schools; appropriate prevention programmes; production of appropriate textbooks.

117. States could also use the following means: information and communication; dialogue between and within religious groups; town planning policies; democracy and development.

118. The Special Rapporteur is currently preparing a second study on racial discrimination, religious intolerance and education. This study will meet his constant concern to prevent racial and religious discrimination. Pursuant to paragraph 8 of the above-mentioned Commission on Human Rights resolution 2000/33, it should help, within the context of the mandate on religious intolerance, to promote the concept of "preventive action", which is the goal that the High Commissioner emphasized in relation to the World Conference against Racism in her general report on the follow-up to the World Conference on Human Rights (E/CN.4/2000/12, para. 21).

119. The recommendations of that study will also be intended to give States guidance for their preventive actions in the area of education. The Commission on Human Rights in its resolution 2000/85 of 27 April 2000 on the rights of the child, under the heading "Education", asked States to ensure that emphasis is given to the qualitative aspects of education and that education is directed, inter alia, to the development of respect for human rights and fundamental freedoms and to the preparation of the child for a responsible life in a free society, in a spirit of understanding, peace, tolerance, gender equality and friendship among peoples, ethnic, national and religious groups, and persons of indigenous origin; and to take all appropriate measures to prevent racist, discriminatory and xenophobic attitudes and behaviour, through education, keeping in mind the important role that children have to play in changing these practices.

120. Finally, this study will provide additional guidance to the conference on school education in relation to freedom of religion and belief, tolerance and non-discrimination, which is scheduled for November 2001.

VI. International consultative conference on school education in relation to freedom of religion and belief, tolerance and non-discrimination

121. At the most recent session of the Commission on Human Rights, the Special Rapporteur announced that, in the context of his mandate, an international consultative conference on school education in relation to freedom of religion and belief, tolerance and non-discrimination was to be held in Madrid from 23 to 25 November 2001, in cooperation with the Government of Spain.

122. On that occasion, an information leaflet was distributed and consultations were held with, inter alia, the Office of the High Commissioner for Human Rights (above all to ensure coordination with educational initiatives such as the United Nations Decade for Human Rights Education), representatives of the United Nations human rights mechanisms (for instance, the Special Rapporteur on education and the Special Rapporteur on racism), States, non-governmental organizations and religious and spiritual communities in order to set in motion the conference preparatory process.

123. The High Commissioner for Human Rights, in an addendum to the report on the follow-up to the World Conference on Human Rights (E/CN.4/2000/12/Add.1, para. 7), mentioned the Special Rapporteur's initiative with regard to the preparation of an international educational strategy for combating all forms of intolerance and discrimination based on religion or belief. In her general report on the follow-up to the World Conference on Human Rights (A/CN.4/2000/12, sect. VIII), the High Commissioner also emphasized the importance of the role of human rights education and the need for it to be aimed at all levels of formal education, including primary and secondary.

124. The Special Rapporteur also met with the High Commissioner to brief her more fully on the 2001 conference and to invite her to contribute to the success of that initiative, which responded to a common concern for prevention. As mentioned earlier, the Commission on Human Rights, by its resolution 2000/50, invited the High Commissioner to undertake specific educational initiatives and public-awareness activities for the promotion of tolerance and pluralism, particularly in the context of the World Conference against Racism and the preparations for the twentieth anniversary of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. The High Commissioner's contribution to the conference on school education, which is directly relevant to the twentieth anniversary of the adoption of the 1981 Declaration, would thus respond to the wishes of not only the Special Rapporteur but also the Commission on Human Rights.

125. The Commission on Human Rights, in its resolution 2000/33, also welcomed the initiatives of Governments to collaborate with the Special Rapporteur, including the convening of an international consultative conference on school education in relation to freedom of religion and belief, to be held in Madrid in November 2001. In its resolution 2000/50, the Commission further recognized that promoting a culture of tolerance through human rights education was an objective that must be advanced in all States, and that the United Nations human rights mechanisms had an important role to play in that regard.

126. Preparations for the conference are under way and invitations will be sent out very shortly to States and other concerned parties.

127. In this connection, the Special Rapporteur wishes to recall the essential details of the conference, as indicated in the information leaflet mentioned above, namely:

128. **Aim of the conference**. Preparation of an international school strategy centred on the right to freedom of religion and belief among primary or elementary and secondary school pupils. The conference will consider a draft document containing a set of recommendations to guide the preparation of school curricula and textbooks on education for tolerance and non-discrimination with regard to religion or belief, taking into account article 18 of the Universal Declaration of Human Rights, article 18 of the International Covenant on Civil and Political Rights and the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

129. **Objective.** A set of recommendations, to be drafted prior to being discussed and adopted by the conference on 25 November 2001, the date of the twentieth anniversary of the adoption of the Declaration.

130. **Participants**. Representatives of States, intergovernmental organizations, the main religions and other religious and spiritual communities, non-governmental organizations and experts.

131. **Format**. Preparatory consultations and discussions at the conference aimed at providing protection against intolerance and discrimination and enhancing the protection of human rights, especially the right to freedom of religion or belief.

132. For further information, the Geneva office of the Special Rapporteur can be contacted at the following numbers and e-mail addresses:

Tel: (004122) 917 93 32/917 91 01/917 91 63

Fax: (004122) 917 90 06

E-mail: pgillibert.hchr@unog.ch
gpassarelli.hchr@unog.ch
eippoliti.hchr@unog.ch

VII. Conclusions and recommendations

133. Once again, the situation with regard to intolerance and discrimination based on religion or belief is alarming. The global trend towards increasing contacts in the social, cultural and economic spheres, inter alia through the new information technologies, is being accompanied by the persistence or growth of extremism and of policies and practices which are detrimental to society and its different components, including minorities and women. Globalization clearly poses a challenge: we must ensure that its benefits are not confined to the rich of the developed countries and the elites of any country, so that excluded population groups will not be tempted by, or fall victim to, extremism, intolerance and discrimination. Inequality in international and national relations prompts marginalized groups to seek refuge in, among other things, religion, and religion can be abused for extremist ends.

134. The implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief is of course indissociable from the question of respect for all human rights — economic, social and cultural rights, civil and political rights and the right to development. In other words, the promotion and protection of religious freedom, tolerance and non-discrimination are, as the Vienna World Conference on Human Rights recalled, closely linked to the promotion of democracy and development.

135. Achieving this requires the implementation of long-term policies and measures to which the Special Rapporteur on religious intolerance can, within the limits of his mandate, make a contribution.

136. The Special Rapporteur considers it essential that the General Assembly should, like the Commission on Human Rights, devote the fullest attention to religious extremism. States and the international community must condemn that phenomenon unequivocally and combat it relentlessly in order to preserve the human right to peace. The Special Rapporteur reiterates his recommendations that the international community should define and adopt a baseline of commonly accepted rules and principles of conduct and behaviour towards religious extremism and that a study on religious extremism should be conducted within the framework of the Subcommission on the Promotion and Protection of Human Rights.

137. Concerning women, the Special Rapporteur, in keeping with the resolutions of the Commission on Human Rights, including resolution 2000/33 stressing the need for a gender perspective to be applied and for gender-specific abuses to be identified, once again this year tried to devote particular attention to policies and practices which are discriminatory and generally detrimental to women. He sent communications to States and looked into the situation of women as it relates to religion and belief when making in situ visits. Attention is drawn, in particular, to the section on women in the Special Rapporteur's report on the situation in Bangladesh (addendum 2 to this report). The Special Rapporteur also plans, in the context of the 2001 conference, to devote special attention to the gender dimension in relation to education and freedom of religion or belief. He also reiterates his recommendation that all the relevant structures and mechanisms of the United Nations should draft and adopt, as soon as possible, a plan of action which includes not only prevention but also efforts to combat discrimination attributable to religions or inadmissible practices. Lastly, between now and the end of the year, the Special Rapporteur will study the status of women in the various religions from a human rights perspective.

138. Concerning minorities, the Special Rapporteur wishes to emphasize that States have an obligation under international law and jurisprudence (inter alia, article 27 of the International Covenant on Civil and Political Rights, General Comment No. 23 of 6 April 1994 of the Human Rights Committee, article 30 of the Convention on the Rights of the Child, and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities) to guarantee the right of minorities to freedom of religion and the practice of religion, within internationally agreed limits. The State remains responsible even when abuses are committed against minorities by non-State entities such as extremist groups. States are also required to create conditions for promoting the identity, including the religious identity, of minorities. Article 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities emphasizes the role of education in this regard. The 2001 conference on school education will also consider the special place to be given in primary and secondary education to respect for and promotion of the identity, including the religious identity, of minorities and will make recommendations in this regard.

139. On the question of sects or religious communities, the Special Rapporteur believes that State intervention in matters of religion or belief must be limited, in conformity with international law, to ensuring respect for the law, particularly criminal laws on, inter alia, the safeguarding of public order, fraud, violence, assault and battery, abduction and corruption of minors. It cannot be the State's role to supervise, favour, impose or censure a religion or belief; nor can any religious or spiritual community supervise people's personal conscience. Again, the Special Rapporteur believes that education may be a solution in this regard. The development of an educational strategy should in fact not only permit the dissemination of a culture of tolerance but also promote awareness and reasonable vigilance with regard to any abuse or danger in the area of religion or belief. The Special Rapporteur reiterates his recommendation that international high-level governmental meetings should be held on the question of sects, in order to consider and decide on a common approach that respects human rights, particularly freedom of religion and belief.

140. On the global phenomenon of intolerance and discrimination based on religion or belief, the Special Rapporteur wishes to emphasize the urgency of prevention. He therefore encourages all States, intergovernmental organizations, the main religions, other religious or spiritual communities and non-governmental organizations to contribute actively to the 2001 conference on school education. He urges them to transmit any documentation relevant to the subject of the conference and to formulate proposals, so that they can be duly considered by the conference preparatory committee.

141. The conference will also mark the twentieth anniversary of the adoption of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief. In this connection, the Special Rapporteur also calls on the various governmental and non-governmental actors to plan celebrations as from the beginning of 2001. They could, for instance, give the name "tolerance" to town and village streets and squares; reproduce the text of the 1981 Declaration in artistic displays in public places; and incorporate the Declaration in civic and religious education programmes, especially in primary and secondary schools. He also encourages the holding of dialogue meetings between leaders and members of different religions and beliefs, including children (especially children from areas of conflict or tension with a religious element), on specific themes or projects related to the anniversary of the 1981 Declaration. Such meetings could be held in countries directly concerned by problems of intolerance and discrimination in the area of, inter alia, religion or belief.

142. The Special Rapporteur recommends the creation, on the web site of the Office of the High Commissioner for Human Rights, of an entry on the celebration of the anniversary of the 1981 Declaration which would not only inform the public about all the activities and events related to this anniversary but also receive any recommendations and celebratory messages. The site would also keep the public informed of the day-to-day activities of the 2001 conference.

143. The anniversary of the 1981 Declaration and the holding of the conference on school education in relation to freedom of religion and belief will also coincide with events to be held in 2001 to mark the United Nations Year of Dialogue among Civilizations. As can be seen from General Assembly resolution 53/22 of 4 November 1998 concerning that Year, in which the Assembly invites Governments, the United

Nations system, including the United Nations Educational, Scientific and Cultural Organization, and other relevant international and non-governmental organizations to plan and implement appropriate cultural, educational and social programmes to promote the concept of dialogue among civilizations, such events will certainly be of relevance and make a special contribution to the mandate on religious intolerance and to the 2001 conference.

144. Lastly, the Special Rapporteur wishes to highlight the importance of the decision taken by the Commission on Human Rights, in its resolution 2000/33, to change the title of the Special Rapporteur on religious intolerance to that of "Special Rapporteur on freedom of religion or belief". This change, which was sought by the Special Rapporteur to make his mandate more positive and reflect the full range of his activities, will take effect when his mandate is next extended, namely, in 2001, which will itself be a way of celebrating the 1981 Declaration.

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Item 116 (b) of the provisional agenda*
Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Elimination of all forms of religious intolerance

Note by the Secretary General**

The Secretary General has the honour to distribute to members of the General Assembly Addendum 1 to the interim report on elimination of all forms of intolerance and of discrimination based on religion or belief, prepared by Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 54/159 of 17 December 1999, dealing with his visit to Turkey from 30 November to 9 December 2000.

* A/55/150 and Corr.1 to 3.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 11 August 2000 so as to include as much updated information as possible.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief

Addendum 1

Situation in Turkey

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I. Introduction

1. From 30 November to 9 December 9 1999, the Special Rapporteur on the elimination of all forms of intolerance and of discrimination based on religion or belief made a visit to Turkey, in pursuit of his mandate, at his request and with the invitation of the Turkish Government.

2. During his visit, the Special Rapporteur went to Ankara (1 to 4 and 9 December), Istanbul (4 to 7 December) and Mardin (8 December) in southeastern Turkey. The Special Rapporteur had also intended to go to Midyat, but this was rendered impossible by imposition of a 4 p.m. curfew for reasons of security.

3. The Special Rapporteur held meetings with the following official representatives: the Deputy Under-Secretary, Ministry of Foreign Affairs and his colleagues; the Minister of State responsible for Human Rights; the Minister of Justice; the Minister of the Interior; the Under-Secretary, Ministry of Education; the President of the Religious Affairs Administration and members of the Higher Council for Religious Affairs; the President of the Constitutional Court; the First President of the Higher Court of Appeals; the President of the Supreme Council; the Vice President of the Human Rights Commission of the Turkish Grand National Assembly; and the Deputy Mayor of the Istanbul Metropolitan Municipality. A meeting was also held with a member of parliament from the Fazilet party.

4. The Special Rapporteur also met with religious representatives, including Patriarch Bartolemeos, Greek Orthodox Church; Patriarch M. Mutafyan, Armenian Apostolic Patriarchate; Rabbi David Aseo; Mgr L. Pelatre and Mgr. Marovitch, Roman Catholic communities; Bishop K. Agabaloglu, Armenian Protestant Church; Bishop Y. Cetin, Syrian Orthodox Church and lay representatives of these communities, as well as non-Armenian Protestants. Consultations were held with non-governmental organizations involved with human rights, including the Turkish Foundation for Human Rights, the Turkish Association for Human Rights and the Helsinki Citizens Assembly. Finally, discussions were held with the President of the Association for Kemalist Thought and several independent Turkish experts, as well as with other organizations and individuals.

5. The Special Rapporteur wishes to thank the Turkish authorities for their invitation and their cooperation. He is also very grateful to the many high-quality representatives with whom he was able to meet in the non-governmental sphere. Finally, the Special Rapporteur expresses his gratitude to the UNDP representatives in Ankara for the splendid cooperation they provided throughout his visit.

6. The Special Rapporteur focussed his attention on examining legislation and policies in the area of freedom of religion and beliefs, and on the situation of non-Muslim communities. As a first step, it is useful to present the information obtained on the numerical size of Turkey's religious communities. With respect to non-Muslims, the Ministry of Foreign Affairs has provided the following two estimates (without specifying dates):

(a) First estimate, provided during the mission

Armenians

About 50,000;

51 churches, of which 35 are open for worship; 6 of 9 churches outside Istanbul are open for worship;

19 schools, 4,000 students and 300 teachers;

17 cultural and charitable associations;

2 newspapers and 6 magazines;

Jews

25,000 (22,000 in Istanbul, 2000 in Izmir and the remainder in Ankara and Adana);

18 synagogues in Istanbul and 25 places of worship in other provinces;

3 Jewish schools with some 700 pupils;

8 associations and hospitals;

1 newspaper;

Orthodox Greeks

3,500 to 4,000;

73 churches;

19 schools, 297 pupils;

about 65 foundations;

(b) Second estimate provided after the mission

Community	*Estimated numbers*	*Percentage**
Armenian	93,500	64
Jewish	26,114	18
Greek Orthodox	3,270	2.5
Syriac	17,194	12
Others	5,628	
Assyro-Chaldean		0.43
Bulgarian		0.34
Catholic		0.04
Arab Orthodox		2.5
Total	**145,706**	**100**

* Of all minorities listed below.

7. Non-governmental sources provided the following data. It should be noted that the last census of religious affiliation and ethnic identity dates from 1965:

(a) 99 per cent Muslim, of whom 80 per cent are Sunni and 20 per cent Alawi and other Shi'ite communities,

(b) 1 per cent non-Muslim:

Armenians: about 60,000 (mainly Orthodox)

Greek Orthodox: about 2,500

Jews: about 24,000 to /25,000

Assyro-Chaldeans: about 25,000

Catholics: about 20,000 to 25,000, of whom one-half are foreigners working temporarily in Turkey, and the remainder are Armenians (about 4,000) and Melkhite and Antioch Christians

Protestants: in addition to the estimated 3,000 to /4,000 Armenian Protestants, there are about 200 other Protestants.

8. The Turkish Ministry of Foreign Affairs has not provided any information on the internal distribution among Muslim communities of different rite. However, according to non-governmental information, Alawi and other Shi'ite communities account for at least 20 percent of the Muslim population. In terms of non-Muslim communities, which account for only one percent of the Turkish population, the largest of the minority groups recognized as covered by the Treaty of Lausanne are the Armenian, the Jewish and the (very small) Greek Orthodox community. Among other communities, the Assyro-Chaldeans stand out numerically, well ahead of the Greek Orthodox.

II. Legal aspects of freedom of religion and belief

A. Constitutional provisions

1. Freedom of religion and belief and the principle of non-discrimination on the basis of religion and belief

9. The 1982 Turkish Constitution guarantees freedom of religion and belief and the principle of non-discrimination on the basis of religion and belief.

10. Article 10 of the Constitution, dealing with equality before the law, provides that all citizens are equal before the law, without discrimination as to language, race, colour, sex, political or philosophical opinion, religion or sect, or any other distinctive feature of a similar nature. As well, article 70 of the Constitution, on admission to the public service, provides that any Turkish national may enter the public service, with the sole criterion being that person's capacity to perform the tasks involved.

11. According to article 14 of the Constitution, on the prohibition of abuse of fundamental rights and freedoms, no right established by the Constitution may be exercised in such a way as to threaten the indivisible unity of the State, its territory and nation, (...) by creating discrimination based on language, race, religion or sect or by establishing, through any other means, a system of government based on one or other of these concepts or ideas. Moreover, article 15 of the Constitution, on suspension of the exercise of fundamental rights and freedoms, even in case of war, mobilization or state of emergency, declares that no one may be compelled to reveal his or her religion, conscience, thought or opinion, or be accused on account of them.

12. Article 24 of the Constitution, dealing with freedom of religion and conscience, provides:

> Everyone has the right to freedom of conscience, of belief and of religious conviction. Acts of worship, religious services and ceremonies may

be conducted freely, provided they do not violate the provisions of article 14 of the Constitution. No one may be prevented from participating in religious ceremonies, or accused for reason of his or her religious beliefs and convictions. Education and instruction in religion and ethics shall be conducted under State supervision and control. Instruction in religious culture and moral education shall be compulsory in the curricula of primary and secondary schools. Other religious education and instruction shall be subject to the individual's own desire, and in the case of minors, to the request of their legal representative. No one shall be allowed to exploit or abuse religion or religious feelings, or things held sacred by religion, in any manner whatsoever, for the purpose of personal or political influence, or for even partially basing the fundamental, social, economic, political and legal order of the State on religious tenets.

13. The Constitution thus protects both believers and non-believers. The High Court of Appeals, in its decision of 26 May 1986, ruled that Jehovahs Witnesses enjoy the protection of the rights guaranteed by the Constitution. The President of the Constitutional Court told the Special Rapporteur that the prohibition on religious parties was based on article 24 of Constitution. The Ministry of Foreign Affairs has stressed that, quite apart from the Treaty of Lausanne (see sect. II.B), the rights of religious minorities are guaranteed by articles 10 and 24 of the Constitution.

2. The principle of secularism

14. The Constitution, in its preamble and in the provisions cited above, protects the principle of secularism (already enshrined in the Constitution of 1936), as a fundamental principle of the State. The Constitutional Court has provided this definition of secularism:

> From a legal point of view, in the classical sense, secularism means that religion may not interfere with State (affairs) and the latter not with religious affairs. According to the Constitutional Court, secularism in Turkey is based on the following four points:
>
> Religion is not to be effective and dominant in State affairs.
>
> Where religion relates to the spiritual life of the individual, a constitutional guarantee recognizes unlimited freedom without any discrimination.
>
> Where religion goes to the spiritual life of the individual and relates to actions and behaviour which affect societal life, restrictions may be imposed and the abuse and exploitation of religion may be prohibited, with a view to protecting public order, public safety and the public interest.
>
> As the guardian of public order and public rights, the State may be given the power to control and supervise with respect to religious rights and freedoms.

15. Despite this interpretation by the Constitutional Court, the principle of secularism in Turkey is highly complex, as the following points will illustrate.

(a) The structuring of the religious sphere

16. While non-Muslim minorities recognized by the Turkish Government enjoy autonomous legal status in accordance with the Treaty of Lausanne, the State is directly responsible for administering Muslim religious affairs, through the Department of Religious Affairs, established in 1924 within the office of the Prime Minister and recognized as a constitutional institution in 1961. According to Law No. 429, the purpose of the Department is to carry out works relating to beliefs, worship and moral principles in Islam, to enlighten the public in respect of religion and to manage places of worship. Article 136 of the 1982 Constitution, referring to the Department of Religious Affairs, defines, in particular, the principles of secularism that are to be observed by the Department in the exercise of its duties:

> The Department of Religious Affairs, which is within the general administration, shall exercise its duties prescribed in its particular law, in accordance with the principles of secularism, removed from all political views and ideas and aiming at national solidarity and integrity.

In other words, this is a case where a political system based on secularism entrusts public institutions with State prerogatives to handle matters relating to one religion, Islam. This State involvement in Muslim religious affairs poses a further problem in that it seems to promote a single conception of Islam, the

Hanafi, and this could be seen as taking a position in favour of Hanafism (see sect. III). The President of the court of appeals told the Special Rapporteur that this situation could pose a problem in particular for atheists among the Muslim majority, in the sense that some of their taxes go to finance religious activities of the State.

(b) Religious education and secularism

17. The fact that the State is secular does not seem to prevent it from taking responsibility for Muslim religious education, whether through courses organized by the Department of Religious Affairs, through its schools for imams and preachers, through its faculties of theology, or through compulsory courses in religion and ethics at the primary and secondary school level (see article 24 of the Constitution). Religious instruction outside the State sphere is permitted, but the State retains the right to control it (ibid.). The third paragraph of article 42 of the Constitution also provides:

> Training and education shall be conducted under the supervision and control of the State, pursuant to the principles and reforms of Ataturk, and in accordance with contemporary standards of science and education.

Muslim religious teaching is thus essentially in the hands of the State, and this could pose a problem if such teaching were monolithic in the sense of promoting a Hanafi conception of Islam, and if its content and message were such as to be offensive to non-Muslims, particularly in the compulsory courses on "religious culture" (see sect. III). Moreover, in accordance with the Constitution, the principles of Kemalism, including that of secularism, are to govern education, and must in particular be reflected in compulsory courses on religious culture and ethics, and this could also pose the issue of Kemalism and hence of secularism as representing a truth from which there must be no deviation, in other words a kind of dogma.

(c) Wearing of the veil

18. The difficulties surrounding the notion of secularism are reflected in the issue of wearing the so-called Islamic veil in public institutions, and the attitude of the authorities in this respect.

19. The Council of State, in response to a complaint brought by a medical student against a decision of the university suspending her for one month for wearing the veil in class, found that the wearing of the veil symbolized a vision of the world contrary to the freedoms of women and the principles on which the Republic is founded.

20. In 1998, Parliament attempted to amend the law on higher education to allow wearing of the veil for religious reasons (the amendment read as follows:

> It is obligatory to have contemporary appearance and dress in higher education institutions, their classrooms, laboratories, clinics and corridors. There is freedom, however, for women to cover, due to religious belief, the neck and hair with a headscarf or turban.

21. At the request of the President of the Republic, the Constitutional Court set aside this amendment and explained that to allow female students to cover their heads on university grounds might adversely affect the public security and unity of the nation because the headscarf or turban shows who belongs to which religion. This action would prevent students from studying together and cooperating in their attempts to reach scientific truth; it would lead to differences and eventually to religious conflicts. The Court also held that freedom to wear the veil on university premises was contrary to the principle that all beliefs are equal before the law, to the extent that permission to wear the veil would be a privilege accorded to certain students only. Finally, it decided that the wearing of any form of dress considered or perceived as religious is incompatible with secularism.

(d) Mention of religion on identity cards

22. The principle of secularism and that of freedom of religion and belief may be considered at odds when reference to a person's religion is made on identity papers, a practice that was upheld by the Constitutional Court in its decision of 22 November 1979. According to the authorities, such mention is optional, but this could still pose a problem to the extent that social pressures might make it difficult to omit mention of one's religion or beliefs. In some situations, such an indication could be a source of discrimination for non-Muslims. The Minister of Justice declared that this practice is not regulated by legislation, while the Minister of Interior expressed the opinion that it is so regulated. The President of the Constitutional Court said that what is important is the fact that mention of

religion is not compulsory, while the Under-Secretary for Foreign Affairs and the Promotion of Turkey considers this to be an anachronism. The Special Rapporteur was told, after his visit, that Turkey is preparing to suppress mention of religion on identity cards (see para. 36).

(e) Nationalism

23. The Constitution enshrines the principle of Turkish nationalism. Its preamble provides that no protection shall be granted for ideas and opinions contrary to Turkish national interests, to the principle of the indivisible integrity of the Turkish entity with its State and territory, to the historic and moral values inherent in being Turkish, to the nationalism of Ataturk. Article 2 of the Constitution reaffirms the legal validity of the fundamental principles declared in the preamble, and reiterates adherence to the nationalism of Ataturk as one of the basic principles of the State. A potential problem arises here, to the extent that this nationalism is interpreted in the form of a militant policy of Turkization based on a restrictive concept of ethnic unity. Were nationalism of this kind to become official ideology it could be prejudicial to minority, non-Muslim communities, and even to Muslims themselves, if the banner of ethnic unity were associated with quasi-official status for the Hanafi conception of Islam and if the notion were thereby promoted that Turkish citizenship is exclusively for those who are ethnic Turks and who are Muslim, specifically of the Hanafi rite, by religion.

B. Provisions of international law

24. Turkey is a party to the Treaty of Lausanne of 24 July 1923. While it establishes the principle of equality for all citizens regardless of race and religion, this treaty enshrines the status of non-Muslims as minorities. It therefore recognizes both the religious identity of non-Muslim communities as well as their individual and minority rights. Articles 37 to 45 of the treaty deal with the protection of minorities. Article 37 gives to the provisions contained in articles 38 to 44 the force of fundamental laws, and consequently no law, no regulation and no official action may contradict them or take precedence over them. By virtue of article 38 of the treaty, all residents of Turkey have the right to the free exercise of any faith or belief, in private or in public, provided that such practice is not incompatible with public order and morality. Article 39 guarantees the principle of non-discrimination and authorizes every Turkish national to use any language, whether in private or business relations, in the practice of religion, in the press and publications of all kinds, and in public meetings. Article 40 guarantees the right of non-Muslims to create, manage and supervise, at their own expense, any kind of charitable, religious or social institution, schools and other teaching and education establishments, with the right to make free use of their own language and to exercise their own religion freely in all such institutions. By virtue of article 42, minorities have the right to settle any issue relating to family or personal status in accordance with their own customs. Moreover, the Turkish Government is committed to protect minority places of worship, to provide full facilities and authorizations to minority religious foundations and charitable establishments, and not to refuse approval for the creation of new establishments.

25. The Ministry of Foreign Affairs has noted, with respect to the reference to non-Muslim minorities in the Treaty of Lausanne, that the Turkish legal system does not encompass, as a rule, the concept of "minority", and that the non-Muslim minorities mentioned in the Treaty of Lausanne constitute the only exception to this rule. In fact, however, it would appear that the Turkish authorities recognize this minority status only for three communities: the Armenian, the Greek Orthodox and the Jewish. The document on religious minorities submitted by the Ministry of Foreign Affairs to the Special Rapporteur stresses, in this regard, that there are only three religious minorities in Turkey, namely the Armenians, the Jews and the Orthodox Greeks. This position poses a problem for other non-Muslim religious minorities, and for Muslims as well (see sect. III). Moreover, there are serious problems with the respect and application of the Treaty of Lausanne for the minorities who are recognized as covered by it (idem).

C. Other legal provisions

1. Provisions of criminal law

26. In this context, special mention must be made of articles 175 to 178 of the Turkish Criminal Code:

> Article 175. Whoever, with the intention of debasing any religion, prohibits or violates the performance of religious services or ceremonies shall be punished by imprisonment for six months

to 1 year and shall be fined.... If this offence is committed by using force, threat or by debasement, the perpetrators shall be punished by imprisonment for 1 to 2 years and shall be fined.... Whoever debases God, religions, the prophets or the holy books, or whoever condemns, derides or insults someone for not fulfilling his religious duties shall be imprisoned for six months to 1 year and shall be fined.... If the felony in paragraph 3 above is committed via the media, the penalty shall be doubled. In case of the incitement by media to the felony stated in article 1, the same punishment shall be given.

Article 176. Whoever pulls down or impairs or damages in any way items in temples, or uses force against or insults spiritual officials, with the intention of debasing any religion, shall be punished by imprisonment for 1 to 2 years and shall be fined.... When a felony is committed during or in connection with the performance of duty by spiritual officials, the punishment prescribed by law for that the felony shall be increased by one sixth.

Article 177. Whoever impairs monuments or similar works in temples or engravings in cemeteries, or damages tombs, shall be punished by imprisonment for 1 to 3 years and shall be fined.... Whoever defiles any of the above-mentioned objects shall be punished for three months to 1 year and fined...

Article 178. Whoever, with the intent of defamation or any other illegal intent, insults or takes partially or entirely the corpse or bones of a person shall be punished by imprisonment for 1 to 3 years and shall be fined.... Whoever, exclusive of the above acts, removes a whole corpse or a part of it, or disinters a dead body or its bones without obtaining official permission shall be imprisoned for two to six months and fined.... When this crime is committed via officials of a cemetery or graveyard or by persons to whom corpses or bones are delivered, the punishment prescribed by law shall be doubled.

2. Provisions of civil law

27. The Minister of Justice explained that the Turkish Civil Code represents translation of the Swiss Civil Code, and that this code, adopted in 1926, replaced Islamic law in personal status matters of marriage, divorce and inheritance and that it guaranteed the principle of equality between men and women. He also noted that draft legislation for a new Civil Code was under study and that this would ensure that all provisions are consistent with the principle of equality between the sexes. He referred specifically to the prohibition of polygamy and the introduction of civil marriage (as a prior condition for any religious marriage).

3. Supplementary jurisprudence

28. The Special Rapporteur was unable to obtain all of the legislation dealing directly or indirectly with freedom of religion and belief. Because of this, supplementary information provided after the visit, both by the Ministry of Foreign Affairs and by non-governmental sources, will be reviewed in this report, in order to give as complete a picture as possible of the legal situation.

(a) Indications and comments provided by the Ministry of Foreign Affairs

Legislation on unused places of worship and on lands and buildings belonging to national religious minorities/conditions for minorities to establish schools, churches, associations and foundations

29. The Ministry of Foreign Affairs has explained that lands and buildings belonging to national religious minorities may be sold, rented or used for another purpose, at the decision of the respective boards of directors, provided such decisions are consistent with legislation governing foundations. If the national religious community that is the beneficiary of the foundation ceases to exist, or if the foundation, despite warnings by the authorities concerned, does not have the means to constitute a board of directors, Law No. 2762 on foundations and provides that the management of these properties shall be transferred to the General Directorate of Foundations, which will be responsible for maintaining the property, while allowing visits to places of worship that are part of such property. Moreover, according to the Ministry of Foreign Affairs, in cases where the management of a foundation has changed hands in this way and where, within five years after that decision, the foundation succeeds in electing a new Board of Directors, it may have its status restored by fulfilling the necessary

formalities with the authorities concerned. The Ministry of Foreign Affairs noted that other establishments, belonging to minorities and religious groups, which are not covered by foundations but which have historical and cultural value, are preserved under the law on the Preservation of Cultural and National Wealth, No. 2963. These establishments are regarded as historic works of art and are under protection. These places are utilized as museums or historic venues and are under the auspices of the Ministry of Culture.

30. The Ministry of Foreign Affairs added that the Government had decided on 15 September 1999 that articles 46 and 48 of the Regulations on Foundations would no longer be implemented for the religious community foundations. That decision had been given to further enable religious communities to act in a more independent way. Thereafter religious community foundations would not be obliged to inform the relevant Administration on Foundations in writing in case they wanted to hire a lawyer to sue somebody or to protect the rights of the foundation. Nor would they be obliged to seek permission of the General Directorate of Foundations before they started constructing or repairing their buildings.

31. Regarding the conditions applicable to minorities for establishing schools, places of worship, associations and foundations, the Ministry of Foreign Affairs has provided the following information:

32. *Establishment of foundations by minorities.* The Treaty of Lausanne recognizes the legal status of establishments of religion, education, health and philanthropy belonging to minorities which were previously established in accordance with rulings of the Ottoman State. These establishments were converted into "community foundations" by the Law on Foundations, No. 2762, adopted in 1936.

33. *Establishment of associations by minorities.* Members of minorities enjoy equal rights to establish associations envisaged in the Constitution for every Turkish citizen. There are a number of associations belonging to minorities.

34. *Establishment of schools by minorities.* The statutes of the schools belonging to the minorities recognized in accordance with the Treaty of Lausanne are preserved. These schools are considered as "Foundation Schools" and continue to provide education and training at the pre-school, primary and secondary levels.

35. *Establishment of churches by minorities.* The number of places of worship recognized by the Treaty of Lausanne suffices when the population of minorities living in Turkey is taken into account. Thus it is not required to establish new places of worship. However, in the legislation, no provision exists regarding any limitations or prohibition against new places of worship for minorities. The general rule, as set out by the Law on Public Works, No. 3194, is that places of worship cannot be built just anywhere, they require to be specifically outlined in the city plans, and the needs and requirements of the social environment are also to be taken into consideration, that is, the presence of a community belonging to that religious belief, and so on.

Indication of religion on identity cards/ changing of religion

36. With respect to the identity card, the Ministry of Foreign Affairs has explained that article 43 of law No. 1547 on civil registry stipulates that all information regarding sex, names — surname, father's and mother's name — and religion of the family members should be noted on the family registration forms. The same format was introduced for identity cards. However, preparations to omit the indication of religion on identity cards are under way.

37. With respect to changing religion, the Ministry of Foreign Affairs stated that, for statistical reasons, records on all population issues were kept by the General Directorate for Civil Registry and Citizenship Affairs. That is why the information concerning change of religion is also conveyed to the General Directorate.

Legislation governing given and family names

38. The Ministry of Foreign Affairs has explained that, by virtue of article 16 of Law No. 1587, children may not be given names that might offend people or that would be considered incompatible with national culture and values. According to that Ministry, since the culture of the religious minorities recognized by the Treaty of Lausanne is accepted as a part of the national culture, those minorities are free to give their children any first or family names they wish, provided they respect the criteria mentioned above.

Treatment of missionaries

39. The Ministry of Foreign Affairs has reported that there is no direct legislation with regard to missionaries. No measures are taken against missionaries who visit houses and apartments or who open up stands to distribute publications for which a legal permit has been obtained. However, if any complaint is made by the public against such house visits, claiming that privacy and the public order are being harmed, missionaries may be taken to the police station by the local police authorities in accordance with article 11.C of Law No. 5443 on the Administration of Provinces. Following their testimony, they are released. Only in cases where they distribute propaganda material without a legal permit may they be detained.

Practice of religion during performance of military service

40. According to the Ministry of Foreign Affairs, all conscripts are free to practice their religion provided they respect military rank and discipline. Military courts have no direct competence to issue judgements on matters relating to freedom of religion and belief. Nevertheless, if a conscript refuses to execute the orders of a superior officer, on grounds of freedom of religion and belief, military criminal law provides for trial by the military tribunals. Under current law, military service is compulsory for all males. A simple declaration of conscientious objection does not constitute a crime. On the other hand, statements that slander or denigrate the Army may be prosecuted by the military tribunals. With respect to conscientious objection, non-governmental sources will be cited (see below).

(b) Supplementary information provided by non-governmental sources

41. *The 1965 law on the public service (Law No. 657)* provides, in article 48, that no criterion other than a person's qualification for the position involved may be taken into consideration in recruitment for the public service.

42. *The 1973 National Education Act (Law No. 1739)* provides, in article 4, that anyone may enter an educational establishment, without distinction as to language, race, sex or religion.

43. *Law No. 2908 of 1983 on associations* provides, in articles 5 and 76, that it is prohibited, under penalty of detention or dissolution of the association, to create associations with a view to (1) attacking the indivisible unity of the State, the country and the Turkish nation; (2) pursuing activities based on the principle or the name of a region, a race, a social class, a religion or a sect; and (3) claiming the existence of minorities based on differences of race, religion, sect, culture and language within Turkish territory, or creating minorities, by protecting, promoting or spreading languages or cultures other than the Turkish language and culture, or declaring that one specific region, race or social class or the members of a certain religion or sect will prevail or will have priority over another.

44. *The 1994 Law on the creation and operation of radio stations and broadcasting (No. 3984)* provides, in article 4, that radio and television broadcasts must seek to serve the public interest, in accordance with the following principles:

(a) They must not offend anyone's feelings by reason of race, sex, social class or religious beliefs;

(b) Broadcasts will not be tolerated if they incite the community to violence, to terrorism or to discriminatory acts based on ethnic identity or if they arouse hostile feelings within the community.

45. *Legislation does not recognize the right of conscientious objection* based on religion and belief. In this regard, the Special Rapporteur recalls resolution 1989/59 of 8 March 1989 of the Commission on Human Rights, which has been reaffirmed on several occasions, among others in resolution 2000/34 of 20 April 2000, in which the Commission recognized the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion, as laid down in article 18 of the Universal Declaration of Human Rights and article 18 of the International Covenant on Civil and Political Rights, and recommended that member States with compulsory military service should, where they have not done so already, establish alternative forms of service for conscientious objectors, which should be of a non-combatant or civilian character, in the public interest and not of a punitive nature.

III. Policy in the area of freedom of religion and belief

A. Consultations with the authorities

1. Governmental authorities

46. All official representatives gave the Special Rapporteur the same message, to the effect that Turkey, since the days of the Ottoman Empire, has been characterized by tolerance of the kind that favours the expression of diversity and of religious practice, applicable to all people, within the context of existing legislation (including the Constitution and the Treaty of Lausanne).

47. With respect to secularism, which is the cornerstone of the Turkish State, it was denied that this system has been the source of any friction or of religious rejection among the populace, even in rural areas. According to the Ministry of Foreign Affairs, any suggestion that Turkey is a society rooted in religious tradition and hostile to secularism reflects in fact a political attack on the country's secular nature. It should be noted, however, that the Under-Secretary of State for Education explained that, given a population where Muslims are the majority, and a republic that was preceded by such a long history, the enforcement of secularism has necessarily been a process of evolution that has sometimes encountered difficulty. Official representatives maintained that the Department of Religious Affairs constitutes a bridge between the State and religion and that its activities on behalf of Muslims should be viewed as a service provided by the State to the Turkish nation, in recognition of its religious, moral and social needs.

48. Attention was nevertheless drawn to the dangers that secularism has faced for the last 10 years in the form of religious extremism and attempts at political and religious exploitation, supported and financed by certain Muslim countries. It was explained that this phenomenon, which has made itself felt in particular through demands for wearing the veil at university, was a purely political and not a religious one, and that it was being kept under surveillance and was being handled appropriately by the State. This is why the headscarf has been banned in public institutions, in order to preserve the secular nature and neutrality of all public services, while allowing it to be worn in private. It was said that the compulsory religious culture courses are not a form of conditioning or indoctrination, but instruction conveying objective information, so that succeeding generations of Turks will be aware of religious realities and will be able to defend themselves from any religious manipulation that might undermine the foundations of the secular Turkish Republic.

49. With respect to the non-Muslim minorities recognized by the Turkish authorities as covered by the Treaty of Lausanne, namely the Armenians, the Orthodox Greeks and the Jews, it was claimed that these groups enjoy privileges such as their own educational facilities, in the context of that international agreement. It was said that there were no juridical problems in this area, that there were no restrictions on their freedom of religion and worship, and that any State intervention was consistent with legislation. With respect to the demands of certain minorities, such as the reopening of religious seminaries, it was said that, despite the privileges guaranteed by the Treaty of Lausanne, national legislation had to be respected and the State was therefore not in a position to satisfy certain communities and respond to international pressure. The Ministry of Foreign Affairs added that there are 160 foundations devoted to the social, health, religious and educational needs of different religious communities (Greek Orthodox, Armenian, Jewish, Syriac, etc.). It was explained that establishments run by national religious minorities were already operating at the time of the Ottoman Empire and that they had obtained their legal status as entities in 1936, after submitting a petition that was regarded as the equivalent of a charter constituting a foundation. On this point, it was noted that it is not possible for a foundation, for example, to invest in real property unless such powers are included in its charter.

50. Regarding the alleged confiscation of two Armenian places of worship, the Ministry of Foreign Affairs responded after the Special Rapporteur's visit that it had been confirmed by the Ministry of the Interior that the Manuk Armenian Church in Karasun/Iskenderun was open for worship. That Church was declared among those "immovable properties of cultural wealth" by the High Council of Immovable Ancient Property and Works on 18 June 1979. The Armenian Orthodox Church in Kirikhan was also open to the public and currently served as a place of worship. It had been taken under protection by the decision of the High Council of Immovable Ancient

Property and Works since 10 September 1997. The Armenian Orthodox Church located at Kirikhan is a foundation and, like all foundations, it is required to elect an administrative board. Nevertheless, the foundation in question has not elected a board since 1991, and it has not responded to warnings from the General Directorate of Foundations. Following inquiries conducted on the subject, it was found that the community served by the foundation, which numbers 11 individuals, is not located in Kirikhan and the church is not used for worship. The code on foundations requires that if a foundation has in fact no beneficiaries, its management must be transferred to the General Directorate of Foundations (as explained earlier). If that foundation should succeed in electing an administrative board within five years, it may restore its prior status after complying with the necessary formalities. In Hatay there are 15 other churches, two synagogues and three Baha'i places of worship.

51. With respect to the heavy exodus of Christians from Turkey, it was said that this situation was related solely to socio-economic factors, in the context of immigration during the 1970s, and that it involved all Turks and did not result from any religious intolerance. It was claimed that any problems raised by members of minorities were false and were in fact intended to help them obtain refugee status in Europe.

52. With respect to Orthodox Greeks, it should be noted that many Greeks left voluntarily during the population exchanges occasioned by the Treaty of Lausanne and the Cyprus issue. The Mufti of Istanbul declared that the treatment of Greeks in Turkey was linked to that of Muslims in Greece. Finally, the authorities said that they were proud of the treatment accorded to Turkey's non-Muslim minorities.

53. In response to the Special Rapporteur's question about the status of minorities other than those recognized as covered by the Treaty of Lausanne, and in particular the Assyro-Chaldeans, the Minister of State for Human Rights declared categorically that these people had no problems to complain of. With respect to the arrests of Protestants in November 1999 at Izmir, the Minister of the Interior said that they were making unauthorized use of premises for religious purposes, and that the neighbours had complained, but that the public prosecutor had decided not to press charges but to issue a warning. In any case, the Minister of the Interior maintained, this was a simple question of enforcing the law on the creation of places of worship. With respect to acts of desecration in Christian cemeteries and places of worship, as well as attacks against Christians, the Minister of the Interior qualified these as isolated acts, often motivated by theft.

54. With respect to the Alawis and the Muslim brotherhoods, the Minister of State for Human Rights and the Minister of Justice denied that they were facing any problem, noting that Turkey was founded on the principle of a single and indivisible republic and that no one had the right to call into question the social order, the Constitution and the principle of secularism.

55. With respect to the general situation regarding freedom of religion and belief, the Minister of State for Human Rights declared that Turkey was very proud and could serve as a model for other nations, and that it had no need for any lessons in this area, while the Minister of Justice suggested that his country was the most tolerant in the world when it came to freedom of religion.

2. Other authorities

56. The Deputy Mayor of Istanbul felt that there was no real religious problem in Turkey, particularly for minorities. He stated categorically that for 30 years no place of worship in Turkey had been desecrated or attacked. He maintained that any difficulties affecting Orthodox Greeks were most likely inspired by the Cyprus issue, which has set Greece against Turkey. He hoped that the international community would not interfere in Turkey's internal affairs, and that it would concern itself instead with obvious religious problems in other countries.

57. The Vice President of the Parliamentary Human Rights Commission felt that if the brotherhoods and the Alawis were free to do as they please, the result could be divisive.

B. Consultations with non-governmental organizations and independent Turkish experts

58. While the Turkish authorities stressed the tolerance that has prevailed in Turkey since the Ottoman Empire, Turkish non-governmental representatives (specializing in the area human rights)

and independent experts gave quite a different slant to their remarks.

59. According to these experts, Turkish policy in the area of religion and belief and the national religious situation are characterized in fact by complexity and paradox. Secularism is proclaimed as the cornerstone of Turkish policy, but it must be noted that this secularism does not involve a strict separation between State and religion. To the contrary, it is a militant secularism whereby the State has completely taken over religious affairs in order to prevent them from having any political influence. With a Department of Religious Affairs that has about 85,000 employees (including imams and hitaps appointed, paid and supervised by the Department) and manages thousands of mosques, pilgrimages and the whole field of religious education, and with the compulsory religious and ethics courses given in primary and secondary schools, the State exercises control and supervision over the majority religion, both for its adherents (99 percent of the population) and for its servants (i.e. religious personnel who have the status of State agents and can be given directives and instructions as needed). Islam has become, in a sense, the State's business, or to put it more accurately, Islam is so important in Turkey that the State cannot treat it with indifference, and still less with disinterest. Muslim affairs do not lie wholly outside the State sphere.

60. According to these experts, secularism, which is the real State religion, is not based on the principle of neutrality, in the sense that the form of Islam managed by the State and promoted among the population is exclusively that of the Hanafi rite. The State thus imposes a Sunni monopoly on Islam that takes no account of the diversity of Turkey's Muslim communities, and particularly the Alawis and the various brotherhoods. With respect to the Alawis, their specific religious needs appear to be totally ignored by the authorities. These experts claimed that the Department of Religious affairs includes no Alawi representatives and does nothing to meet their religious needs, but on the contrary seeks to impose on them the Hanafi conception of Islam. Moreover, in some cities, they claim, the local authorities are trying to force the Alawis to worship at the mosques run by the Department of Religious Affairs, rather than in Alawi houses of prayer. The monistic approach of the State to Islam risks arousing suspicion and discrimination among the Sunni majority against Alawis who express their own religious convictions. In some cases, Alawis have even been subject to violent attacks by Sunni extremists: reference was made to such involvement in the deadly fire at a Sivas hotel in 1993 that killed 37 people during an Alawi festival, reflecting a clear failure by the State to fulfil its duty to protect the public.

61. In the end, to judge from the statements of non-governmental experts, the State would appear to wield control over both secularism and religion. Any understanding of the religious situation in Turkey must also take account of Turkish nationalism, in particular as it is expressed by the Turkization policy, the impact of which is felt by non-Sunni and/or ethnically non-Turkish Muslim communities, and in particular by non-Muslim minorities. Several Turkish experts maintain that Turkish nationalism lies behind the intolerance of Turkish secularism and of society in general, and that this constitutes regression compared to the Ottoman Empire. The experts offered the following information:

62. In its relations with Europe, the Ottoman Empire had to deal with the question of its non-Muslim minorities in the context of European claims to hegemony, often exercised under the pretext of providing protection for these communities. In these circumstances, Turkish society felt itself weakened and under threat and attempted to find scapegoats within its midst, in this case the Christians. According to these experts, the Turkish ethnic component was seen as the only means for creating a new State, in the face of the Ottoman Empire's disintegration. One component of the nationalism that was expressed at that time was to reject the Christian minorities as a danger. This situation laid the basis, among the elite and within the State, for a kind of paranoia that manifested itself in an anti-minority policy. According to these experts, the Ittihat party sought to create a nationalistic Turkish bourgeoisie but, given the difficulties in doing so, it took advantage of the conditions prevailing during the First World War to eliminate the greater part of the Armenian community (1915) and to confiscate their property and transfer it to a new local elite. Similarly, according to these experts, when it came to the Greeks in the Aegean, the State, acting on the basis of nationalistic ideas, drove out the Greek community by instigating night-time attacks on farms, and popularized its efforts by mobilizing the Muslim religion against the Christians.

63. After the establishment of the Republic, according to these experts, the State pursued this nationalistic bent, including its anti-Christian component. They pointed to the following events, in particular: in 1932, legislation prohibited Greeks from practising certain professions (for example, law); in 1942, a wealth tax was aimed primarily at non-Muslims, who were economically very active, in an effort to Turkicize the economy by imposing prohibitive taxes that forced people to sell their property; in 1955, anti-Christian riots broke out, apparently linked to the Cyprus issue (a bomb was placed by an official of the Ministry of the Interior at the family home of Ataturk in order, it is alleged, to provoke attacks on Christians); in 1964, as a result of tensions over the Cyprus issue, Turkey broke its agreement with Greece and prohibited all commercial dealings by Greeks holding a Greek passport, leading thereby to the departure of some 40,000 Greeks; in the early 1980s, official television broadcasts used the terms "Armenian" and "Greek" as insults; in the late 1990s, the Minister of the Interior maintained publicly that Ocalan, the leader of the PKK, was of Armenian origin. These events occurred in parallel with Turkization campaigns promoting, for example, the slogan of "one language, one race, one culture".

64. According to these same experts, as a result of the isolation of Turkish society, particularly at the beginning of the Republic, and of the events and policies described above, the State developed within itself deeply xenophobic feelings explained, in part, by the perception of European interference in the last days of the Ottoman Empire. It must be stressed that, as distinct from the Christian minorities, the Jewish community has generally enjoyed satisfactory treatment to the extent that after the collapse of the Ottoman Empire the land claimed by the Jews lay outside Turkey, in contrast to the territorial claims of the Armenians and Greeks. The current satisfactory status of the Jewish minority also reflects the positive effects of rapprochement between Turkey and Israel, particularly in the military sphere.

65. Finally, according to the experts, the Christian minorities, in comparison with the Jewish community, appear to be faced with a kind of "steamroller" effect that is driving them to leave en masse, for reasons entirely unrelated to economic considerations. These minorities are also the victims of a generalized social intolerance, particularly among people in rural areas who are strongly attached to their own religion but who have no sense of respect for other religions. This reflects the direct fallout of State policies towards minorities, the historical events described above, and the negative impact of some of the media, which have continued to promote a message of intolerance towards the Christian minorities.

66. With respect to the danger of political exploitation of religion by extremists, several non-governmental representatives expressed their concern over this phenomenon. It was suggested that, because of political concessions, the Islamists had been able to use the media to take over control of society and even of State institutions (particularly in the area of justice and education). In this respect, it was claimed that the Fazilet party, which is currently represented in Parliament, was merely the successor of the Refah, which was banned by the Constitutional Court in January 1998 for attempted subversion and imposition of a theocratic state. Several representatives maintained, nevertheless, that there was little risk of establishing a theocratic state, given the role of the Army as the guardian of secularism. Yet generally speaking, many representatives deplored the fact that Islam was being used as a tool of political exploitation by all players in the country's political life, both in government and within the political parties, particularly the Fazilet, which was seeking to recruit not only Turkish society but also the Army, the power of last resort for Turkish democracy. This paradoxical situation demonstrates, according to several experts, that Turkey has not yet been able to create a true secularism either of ideology or of action.

C. Consultations with a representative of the Fazilet party

67. While the governmental authorities explained their position in terms of secularism as the cornerstone of the Turkish State, and cited the dangers inherent in attempts to exploit religion for political purposes, particularly through demands for wearing the veil in public institutions, a representative of the Fazilet party declared that, since 28 February 1997, the State had been interfering in internal religious affairs through direct intervention by the military and by the Prosecutor of the Public Safety Courts against a female deputy (of Turkish and American nationality) who was wearing the veil in Parliament. He saw in this a serious breach of human rights, representing an attack on the

fundamental right of freedom of religion. He declared that the situation was a result of the actions of ideologically motivated bureaucrats and in particular of certain cells that promote Kemalism and rail against the threat of a theocratic state. He concluded that people are much attached to religion — as shown in the rise in pilgrimages, the increasing numbers of children enrolled in imam schools and the number of mosques (some 1500) that are being built each year. He also stressed that this attachment to religion did not exclude adherence to the principles of Ataturk. He felt that, in practice, it was impossible to exploit religion for political purposes in Turkey.

IV. The situation of non-Muslim communities

68. To the extent that the status of Muslims depends on the Department of Religious Affairs, and hence on the State, and since their situation has already been examined (see sect. III), the Special Rapporteur has decided to devote his attention to the status of non-Muslim minority communities. The treatment accorded by the authorities, and that resulting from the attitude of society towards minorities, in the broad sense of the term, shed considerable light on the current status of implementation of international instruments relating to freedom of religion and belief. The following information reflects consultations with religious and lay representatives of these communities, as well as written reports received from them.

A. Minority communities recognized by the Turkish authorities as minorities under the Treaty of Lausanne

1. The Greek Orthodox minority

69. The Greek Orthodox Patriarch, Bartolemeos I, declared that the Greek Orthodox community (consisting of persons with Turkish nationality) enjoyed full freedom of religion and worship, but he related the following problems that his community faces in the area of religion.

(a) Title of the Patriarchate

70. From a historical viewpoint, the Patriarch was the bishop of Constantinople, the capital of the Byzantine Empire, and the second most important Christian leader after the Pope in Rome, according to the Second Ecumenical Council of Constantinople in 381. The Patriarchate was only one of the four patriarchates of the Early Church (which were located in Constantinople, Alexandria, Antioch and Jerusalem), but it was by far the most important. For these historical reasons, the proper title of the Patriarchate, as recognized by all Christian institutions, is the Ecumenical Patriarchate of Constantinople. It should be noted that, since 1453, the Patriarchate has been under Turkish rule, and that the constituencies of the Patriarchate include the Orthodox Greeks of Turkey, the archdiocese of America, the Athos Peninsula, the Greek Orthodox churches of Western Europe and the Orthodox Church of Australia. These are the historical facts relating to the canons of this church. The Turkish authorities do not accept this title, either the term Ecumenical or the reference to Constantinople, which was renamed Istanbul in 1930. The Under-Secretary of State for Foreign Affairs declared that this title is not consistent with the provisions of the Treaty of Lausanne, and that the Patriarchate is a Turkish institution. Patriarch Bartolemeos insisted that the title of "Ecumenical Patriarchate of Constantinople" was in no sense a sign of political aspirations, but a simple description of the religious duties incumbent upon the Patriarchate, which is indeed located in Istanbul (and is commonly referred to as the Patriarchate of the Fanar, because of the site of its premises) but was historically known as the Patriarchate of Constantinople.

(b) The legal status of the Patriarchate

71. The Patriarchate does not have the status of a legal entity.

(c) Religious training institutions

72. With the closure by the authorities of private religious training institutions in 1971, the Patriarchate lost the use of its seminary on the Island of Halki. The Patriarchate has thereby been deprived of the means for training new clergy (from among whom the next Greek Orthodox patriarch in Turkey will have to be selected). The Patriarchate has therefore being compelled to train its religious personnel abroad, a solution that is far from ideal, because most of these people do not return to Turkey. According to the Patriarch, reopening the Halki seminary is essential for the future of the Patriarchate itself and for the Greek Orthodox community.

(d) Properties

73. Patriarch Bartolemeos gave the Special Rapporteur a copy of a memorandum that was submitted to the Turkish authorities. After referring to the many religious, charitable and educational institutions dependent on the Patriarchate, the memorandum goes on to note that those institutions were started and administered by Imperial decree for most of the Ottoman period and were finally granted corporate status in 1913. Further legal arrangements and legislation in the early years of the Turkish Republic classified these institutions as foundations without ever drafting a charter for them. Two declarations of the foundations' estates were submitted by the Lausanne minorities in 1913 and 1936 to enable the former to receive titles of ownership for their real estate possessions, which had been up to those times held in the custody of various trustees.

74. The document further reads:

> Subsequently, more pieces of real estate were acquired by the said foundations, usually through donations, wills and direct purchases. In each case, titles of ownership were received following court verdicts upheld by appeals courts to the effect that the foundations were competent to own real estate and that the acts of will, donations or purchases were duly performed. Again in each case the provincial governor's office would instruct the office of land registry in writing to register the transaction and hand in the titles of ownership to designated administrators of the foundation, who would receive them in its name.
>
> Beginning in 1974, the same courts that had approved the acquisitions reversed their decisions and voided the above transfers of ownership on the grounds that real estate acquisition was not expressly mentioned in the said foundations' charters. The courts stipulated that the declarations submitted in 1936, which were merely listing each foundation's estate and finances for the previous year without any mentioned whatsoever pertaining to their mission, line of activities, administration, or other details commonly found in such documents were to be considered as charters.
>
> As a result of this reversal, all real estate property acquired after 1936 reverted to its previous owners, long since dead. In a few cases, relatives inherited properties, while in the vast majority of cases, the State assumed possession of this 'abandoned' property. Appeals to the Turkish Government during the last 25 years have extracted promises to introduce legislation that will reinstate ownership of the lost properties albeit with no concrete results so far. Meanwhile, litigation is still continuing although most legal means have been exhausted. Permanent loss of property acquired after 1936 can have devastating effects for some foundations. Baliki Hospital, a 650-bed facility run by the Greek community in Istanbul and providing in- and outpatient care to well over 35,000 people annually regardless of creed or national origin and free of charge for the needy, relies heavily on real estate income to meet operating expenses. Yet the hospital has lost possession of 132 properties, which make up the majority of its endowment.
>
> According to the Turkish Civil Code and the Foundations Act, anyone is free to start a foundation and assign its mission. Since minority foundations were not legal entities until the beginning of the 20th century, and some of them date from time immemorial, they have no duly filed charters. At no time after the passage of the above acts were those foundations asked to submit a charter, which according to the same laws above is supposed to express solely the intentions of the founders. The courts arbitrarily interpret the 1936 financial statements as the foundations' charters.

75. Quite apart from the attitude of the courts, as described above, the authorities, through the General Directorate of Foundations, have taken advantage of the legislation on unused properties to appropriate the properties and places of worship of the Greek Orthodox community, in a unilateral and often arbitrary manner, and have been using some of these properties for revenue-generating purposes. For example, the Patriarchate had sought to transform its orphanage on Princes' Island into a hotel. The General Directorate of Foundations dismissed the establishment's board of directors and declared that the Patriarchate had no rights to this foundation. Legal proceedings on this matter are now under way. Similarly, in the Galata quarter of Istanbul, four Greek Orthodox Churches were reportedly expropriated by this same authority. It was noted that in most cases the Patriarchate has lost

its case in litigation proceedings. It should be added that the boards of directors of the Patriarchate's institutions (schools, hospitals, places of worship) face serious difficulties. From 1968 to 1991, and again since 1992, the authorities have failed to authorize elections, thereby making it impossible to replace board members who have died or who have left Turkey. This has posed problems for the management of these institutions, and could be interpreted by the General Directorate of Foundations as non-utilization of property. The General Directorate of Foundations, indeed, appears to be held in fear by the Greek Orthodox community. While expressing his readiness to turn over properties no longer needed by his community, the Patriarch declared his opposition to any move to confiscate them.

(e) Educational establishments

76. The Patriarchate is facing difficulties in administering its schools and in enrolling students. Its institutions must be administered by a "Greek headmaster" of Turkish nationality, seconded by an assistant headmaster of Turkish nationality who is not an Orthodox Greek. The authorities often fail to appoint a headmaster, thereby leaving the school's management in the hands of the Turkish assistant headmaster. Moreover, according to Turkish regulations, for a child to be enrolled, he or she must have a Greek second family name and at least one Greek parent. In other words, children of parents belonging to other Christian confessions are not allowed to attend the schools of the Patriarchate.

(f) Attacks on Patriarchate property, desecration of cemeteries and personal assaults

77. Greek Orthodox religious dignitaries and sites (places of worship and cemeteries) have reportedly been the target of acts of violence, including bomb attacks (particularly against the Patriarchate's headquarters), desecration and an assassination (see the report of the Special Rapporteur (E/CN4/1999/58)). Despite these serious incidents, the security services responsible for investigation have never succeeded, according to Greek Orthodox spokesmen, in identifying and arresting the people responsible for such acts.

78. These obstacles and attacks and the prevailing climate of insecurity stem in large part from official policy towards the Greek Orthodox minority (see sect. III.) and the Cyprus conflict, for which of course the Greeks of Turkey insist they have no responsibility. As a result, however, the Greek Orthodox community is virtually on the point of disappearance. The Patriarch has stressed that the departure of Orthodox Greeks has nothing to do with economic factors, but rather with their condition as second-class citizens. As he sees it, Orthodox Greeks comply with their national obligations but they are not allowed to enjoy all their rights. The Patriarch expressed the wish that his flock, and the entire Greek Orthodox community, should enjoy the legitimate rights of Turkish citizenship and that they should be protected from the tensions that often arise between Turkey and Greece.

79. As positive developments, the Patriarch pointed to the fact that the prohibition (in place from 1973 to 1978) against issuing him a passport had been lifted and that for the first time there was no interference by the authorities in the most recent election of the Patriarch. He also noted that minorities have recently enjoyed access to the media, for example to the ATV network, which sponsored a forum on policy towards minorities. As well, the most important representatives of "religions of the book" met at Tarsus on 10 and 11 May 2000, where they issued a declaration stating that they "live in peace and repose" and that while "there are some problems regarding freedom of religion and conscience, freedom of faith, education, culture and religious practices in all parts of the world.... these problems are not insurmountable" (see Annex 1).

2. The Armenian minority

80. Most of the Armenian community belongs to the Armenian Apostolic Church. There is however a minority of Armenians who are Catholic or Protestant.

The Armenian Orthodox Patriarchate

81. The Armenian Patriarch began by stressing that his followers enjoy freedom of religion and worship without interference from the authorities. He then went on to explain the difficulties facing his Patriarchate and his community, and the direct impact that these have in the religious sphere.

(a) Legal status of the Patriarchate

82. The Patriarch recalled that, as with other minorities, the Armenian Patriarchate has no legal status as an institution. In practice, the Patriarchate is recognized by the authorities, and indeed when the Patriarch was elected the Turkish Government sent a

letter recognizing the election results and authorizing the Patriarch to wear religious habits in public (the Hat Law and the Law relating to Prohibited Garments of 1934 emphasized that religious clothing should not be worn outside religious places). This was, nevertheless, merely de facto recognition, with no legal effect, and it has posed some real difficulties: for example, some authorities have refused to accept the Patriarch as a valid representative, because of the Patriarchate's lack of legal status, and the courts have on occasion adopted a similar attitude, thereby denying it legal recourse.

83. This precarious status of the Patriarchate prevents it from legally owning property and receiving revenues, and obliges the Patriarch to act solely in his personal capacity. He must appeal to his followers for funds to cover the many financial burdens involved in supporting religious personnel, places of worship, schools and other establishments run by the community. The Patriarchate must also act through foundations, which have legal status but which remain exposed to the difficulties described above (paras. 73 to 75).

84. The Patriarch said that he understood governmental concerns that granting legal status to non-Muslim minorities might lead to similar demands by Muslim religious dignitaries. He insisted, however, that while citizens from the religious minorities enjoy equality before the law with other Turkish citizens in terms of economic, social and religious freedoms, the same freedoms must extend on an institutional basis to the minority communities.

(b) Religious training institutions

85. As with the Greek Orthodox community, the Armenian Patriarchate no longer has a seminary for training clergy. Consequently, the Patriarchate currently has only 24 priests in Istanbul, serving 38 churches. Again, the Patriarch noted the authorities' concerns that allowing non-Muslim minorities to have their own private religious training institutions would lead to similar demands by Muslims, with the potential risk of religious extremism that might emerge in private Muslim religious institutions. The Patriarch has therefore initiated a private dialogue with the education authorities for establishment of an Armenian religious department in a State university.

(c) Properties

86. The problems described by the Greek Orthodox Patriarch concerning the attitude of the courts and of the General Director of Foundations and the confiscation of community properties are of similar concern to the Armenian Patriarchate. One case was mentioned in which a place of worship at Hidyat was confiscated even after the Armenian community had decided to offer it to the Turkish authorities. Under the circumstances, the Patriarch considered this confiscation to be a totally improper act.

87. According to the Patriarch, a second tourniquet on Armenian-owned foundations is slowly being applied through the antiquated system of electoral districts within Istanbul, where Armenians no longer cluster in the same residential areas. Under current Turkish legal restrictions, those who have moved away from these neighbourhoods are no longer eligible to vote for or serve on the administrative boards of the respective trusts. As a result, elections are barred indefinitely, financial transactions blocked and the trust in danger of being closed down by the State. In the face of these restrictions, the Patriarchate is unable to establish, much less to build, places of worship in new Armenian neighbourhoods.

88. The Patriarch added that a further dilemma was posed by a 1981 decree requiring all Armenian religious trusts to shoulder a five-percent tax to pay for government inspections and audits, while Greek and Jewish trusts were exempt. Similarly, non-profit Armenian institutions such as schools and hospitals were required by the Ministry of Finance to pay corporate taxes, since those community charities charged for their services. However, all these trusts were in fact debit operations subsidized from within the community.

(d) Educational establishments

89. As with the Greek Orthodox community, Turkish curricula and assistant headmasters ensure that education given is in accordance with Turkish standards.

(e) Election of the Patriarch

90. In response to the Special Rapporteur's request for information on interference by the authorities in the election of the Patriarch (see E/CN.4/1999/58), the Patriarch replied that his church had no concordat with

the State and that successive governments since the establishment of the Turkish Republic had intervened in the appointment and election of the Armenian religious leader (who must be of Turkish nationality). He noted that last year his election had encountered obstacles because of the hostility of a police chief in the Governor's office but that, faced with protests from the Armenian community, the authorities in Ankara had resolved the situation. The Patriarch hoped that legislation would be adopted to make it clear that the election process was not to be dependent on the authorities.

91. More generally, the Patriarch called for a thorough updating and reworking of the regulations and bylaws governing minority foundations, most dating back to the 1930s. The reform of legislation dating from the early days of the Republic, and thus bearing the stamp of Turkish nationalism, would help to remove obstacles to the full enjoyment of the Patriarchate's legitimate rights. The Patriarch concluded that such a request from a minority community was unlikely to be adopted as a priority by lawmakers, but it must be recognized that minorities constitute the showcase of any democracy.

Armenian Catholic and Protestant churches

92. Representatives of the Armenian Protestant Church declared that they faced no obstacles to their freedom of religion and worship, but they referred to the same difficulties as those cited by the Armenian Orthodox Patriarch concerning the lack of legal status, religious training institutions, and obstacles and attacks affecting their property and educational establishments. Similar information was given by the Armenian Catholic Church.

93. For example, it was reported that a Protestant primary school in Gedik Pacha was confiscated in 1974, even though the Protestant Church had title to the property.

94. The Protestant Church representative also noted that both the security authorities and the education authorities prohibited any child not recognized as Armenian from attending Armenian schools. Children have therefore had to be withdrawn from the schools, even though most of them were in fact Armenians (following the events of 1915, many Armenians converted to Islam to escape death, and then, having moved to the major cities, they returned to the Christian faith; however, these facts are not recognized by the authorities). It was suggested that the situation constituted discrimination, since, in contrast, anyone may attend French or German schools in Turkey.

95. The churches also face serious obstacles to their proselytizing activities. K. Agabaloglu, the pastor responsible for the Protestant church in Istanbul, related a personal case. On 24 December 1997, he complained over the radio that it was prohibited to hand out Bibles in public to passers-by, while the distribution of the Koran was considered a public service. Following this statement, the Governor filed charges against the pastor, seeking a sentence of one to six years' imprisonment for slandering the Republic. The trial dragged on for a full year and a half, and was then halted because of an amnesty decree. However, the fact of this dismissal has not removed the obstacles to Christian evangelism, and any further statement by the pastor about these problems would, according to him, expose him to prosecution by the authorities.

3. The Jewish minority

96. Representatives of the Jewish community declared that they enjoyed full freedom of religion and worship. They confirmed that the Rabbinate has no legal status, but that it is recognized de facto by the Government. When asked about confiscation of community property by the General Directorate of Foundations, in light of the interpretation given to the 1936 declaration of assets, as confirmed by the courts, and the "non-utilization" of community property, these representatives noted that the concept of "non-utilization" is a loose one and that all minorities face the same situation. They said, however, that their purchases of property since 1936 had not been affected, thanks to the creation of new foundations or associations. They referred to difficulties of bureaucratic delay that they had occasionally faced in obtaining approval for property renovations, but noted that their applications were eventually approved.

97. The Jewish representatives declared that their community encountered no anti-Semitism either from the State or from society, except for a few right-wing newspapers. Moreover, attacks on their places of worship had been very rare, and were committed by foreign elements.

98. Finally, the Jewish representatives were unanimous in insisting that the situation of their

community was fully satisfactory. They also indicated that Turkish legislation, jurisprudence and administrative procedures posed no problem for them, but that they were sometimes employed in a discriminatory manner against other non-Muslim communities.

B. Minority communities not recognized by the Turkish authorities as minorities and/or as covered by the Treaty of Lausanne

99. The Special Rapporteur looked into the situation of non-Armenian Catholic Protestants, as well as that of the Syriacs.

1. Catholics and Protestants

100. While the non-Armenian Catholic and Protestant communities are not recognized by the authorities as minorities and/or as covered by the Treaty of Lausanne, their followers must enjoy the constitutional guarantees of freedom of religion and worship that are accorded to all citizens. Apart from the problems stemming from the lack of corporate legal status for the Catholic Church (despite the establishment of diplomatic relations with the Holy See in 1960) and the Protestant Church, religious manifestations face other difficulties as well.

(a) The Catholic community

101. The Catholic community enjoys freedom of worship, but only within confined spaces, i.e. essentially within Catholic places of worship and other religious establishments. Thus, any pastoral work among Muslims may be regarded as religious propaganda and incitement, and hence liable to be prohibited by the police. Proselytizing is in fact severely discouraged: this reflects the position of the authorities and their narrow interpretation of secularism, but it also betrays a general intolerance among important elements of society who tend to see in any public show of faith, other than Muslim, an attempt at conversion, which is in the popular mind unacceptable.

102. In the case of priests and nuns, as with other minorities, the wearing of religious habit in public is formally prohibited (apart from the senior religious leadership). Similarly, the Catholic Church is not allowed its own religious training institutions. Difficulties have been encountered in obtaining visas and visitor permits for foreign religious personnel. Moreover, the appointment of bishops is constrained by legislation prohibiting foreign authorities from designating the leader of a religious community in Turkey.

103. With respect to property, it was reported that the courts and the General Directorate of Foundations were moving ahead with further confiscations. It was noted that in 1993 a "joint commission" was created to conduct political consultations: these were held at the Vatican in 1993 and 1996, and the outcome included an academic cooperation agreement between the University of Ankara and the Jesuit Consortium Gregorianum and the reopening of the chapel at Tarsus (which the State had previously been using as a military depot). In most cases, however, the State has taken possession of the property or prohibited its use for other purposes.

104. With respect to educational establishments, the rule requiring appointment of a headmaster from the minority community and a Turkish assistant headmaster remains in force. As regards the compulsory religion and ethics course, exemptions may be granted for Christian children. However, since most pupils in Catholic schools are Muslims, Christian parents are hesitant to seek such exemption for their children, for fear that they will be criticized or feel excluded by their Muslim classmates.

105. Catholic representatives concluded that their community was in a very precarious position and that it was essential to secure a clearly recognized legal status for the Catholic Church. It was suggested that the refusal of the authorities to yield on this point, on the grounds that this would be unconstitutional and might provoke similar demands by Muslims, was unfounded, since the Muslim community was in fact represented by the Department of Religious Affairs. The problem was said to lie with the interpretation of Turkish secularism, which seeks to control religion and relegate it to the private individual sphere. While accepting that the purpose of Turkish legislation is to combat Muslim extremism, these representatives noted that the law also affects non-Muslims who seek nothing more than to exercise their rights, including their religious rights, without interference by the authorities. Finally, they complained that the Catholic Church is compelled to fight continuous battles just to maintain what is, in fact, an unsatisfactory status quo.

(b) The Protestant community

106. The non-Armenian Protestant Church in Turkey represents a community of recent origin (dating back about 30 years), consisting essentially of people of Turkish origin, and therefore frequently Muslims, who have converted to Christianity.

107. The active proselytizing of this community in its search for converts poses a problem both for the authorities, whose restrictive interpretation of secularism opposes religious influence in the public sphere and whose concept of nationalism draws a close association between Turkish ethnic identity and the Muslim religion (see sect. II), and for society at large, where this brand of nationalism is broadly accepted. It also tends to incite religious extremists, who for example committed bomb attacks in 1996 and in November 1999 against Protestants, and political extremists, who associate Protestantism with American imperialism.

108. The reaction of the authorities to Protestant religious activities led, on 12 September 1999, to the closure of a building that was rented and used as a place of worship by Protestants, and the arrest of some 40 people, officially because of complaints from neighbours. The public prosecutor finally decided not to pursue charges. The Protestant representatives maintained that the charges laid by the police were unfounded since, on one hand, no complaints had actually been received from neighbours (otherwise the public prosecutor would have had to act) and, on the other hand, because the rented hall was independent of the main building and had a separate entrance, which meant that they were not obliged to seek the prior agreement of neighbours, as the police insisted. Moreover, two weeks later, at Zeytinburnu, the police again moved to close a hall used as a place of worship, citing the law on public gatherings.

109. As the Protestants see it, these events constitute a development that is difficult to interpret in any categorical way, but that would seem to reflect the intervention of certain authorities on the basis of their own religious or secular views.

110. With respect to the refusal to recognize the Protestants as a religious minority, and the failure to grant them legal status, the Protestant representatives pointed out that they could not conduct their activities officially as a Protestant community, and hence it was impossible for them to acquire places of worship and other religious properties on that basis. The community was therefore obliged to rent premises, either through a community member acting in his private capacity, or through an association, without mention of any religious connection. Moreover, they said, while the police may tolerate Protestant activities within such premises, they are quick to prevent any public manifestations, and have for example forbidden any sign bearing the word "Protestant".

111. When it comes to foreign religious figures invited by the Protestant Church, they must in effect apply for a tourist visa.

112. With respect to educational establishments, the Protestant representatives declared that their children were entitled to an exemption from religious and ethics courses, but that the compulsory nature of those courses constituted a form of pressure on families and children, since those who sought exemptions risked rejection and ostracism by the majority. They also reported that they had submitted a complaint to the Minister of Education concerning school textbooks that promoted, as they saw it, a message of intolerance again non-Muslims who, through references to the Crusades, were insidiously accused of hostility to Islam, and that portrayed as well a vision of Muslim Turks constantly triumphing over non-Muslims. Their demands for revisions to these textbooks have been met, to date, with silence on the part of the authorities.

113. Finally, the Protestants deplored the uncooperative attitude of the authorities, who have rejected all efforts to engage in dialogue, and they feared that their difficulties were likely to grow as their community expands. What they wanted was to be recognized as a religious community and to enjoy their rights to proclaim their religion freely.

2. Syriacs

114. It should be noted that the information gathered from Syriac representatives reflects as well the situation of the rest of the Assyro-Chaldean community, Catholic and Protestant alike.

115. The Syriacs are not recognized by the authorities as a minority covered by the Treaty of Lausanne, despite their historical presence in Turkey. They therefore enjoy none of the rights of a religious minority, although they should, in principle, be covered by the constitutional guarantees relating to freedom of religion and worship. The Syriac representatives said

that, while the authorities respected their freedom of religion, it was nevertheless difficult for them to exercise that freedom. In particular, they pointed to the lack of any legal status for the Syriac community.

116. The community has no religious training seminar and this poses a serious problem, since the corps of clergy is ageing and the authorities have prohibited the replacement of any deceased clergy by clerics from abroad. The situation thus threatens the very survival of this community, since its religious identity will gradually disappear as the present clergy pass on.

117. With respect to places of worship, the authorities have imposed restrictions on the renovation of churches and monasteries in the Turrabdin region of southeastern Turkey. The authorities sometimes justify these restrictions in the name of preserving a historic landmark. Yet in many cases this stance in fact seems to represent interference by the authorities, inspired by a nationalism that rejects all minorities, particularly Christians. A clear example of the situation can be seen in the fact that the Syriacs were prohibited from expanding the Deyrulsafaran monastery at Mardin in a manner consistent with its architectural style (cut stone), but were told that they could proceed if they used other materials, in this case plain concrete. The results can be readily seen upon a visit to the monastery. Besides such problems with the rehabilitation of existing churches, the community faces the confiscation of places of worship declared "unused" by the General Director of Foundations, which sometimes will convert them into mosques. In Istanbul, which has become the principle destination of Syriac migration, there is only one Syriac church, and worshippers are therefore obliged to use the facilities of other communities. Repeated complaints by the Syriac representatives to the authorities, including the President of the Republic and the Prime Minister, have been fruitless. The Syriac community is thus, in practice, denied the right to construct places of worship in Istanbul, despite its evident, urgent and legitimate needs.

118. With respect to other properties, the Syriacs are severely lacking in social, charitable and health institutions, because they are prohibited from opening their own establishments. Petitions addressed to the authorities, including senior government officials, have so far had no success. The same is true for applications to open schools. The Syriac culture, including its religious basis (such as its liturgical language and rites), can only be passed on to the new generation through courses offered in places of worship which, as was pointed out, are non-official schools. It was reported that in 1998 the mayor of Mardin prohibited Syriac religious instruction.

119. When it comes to the religious and ethics courses in the public schools, Syriac children are eligible for exemption. Nevertheless, such exemption poses two kinds of difficulties, particularly in southeastern Turkey: on one hand, parents do not ask for exemption for fear of ostracism, and on the other hand some schools refuse to respect this exemption, even when it has been formally approved in advance.

120. The status of the Syriacs is of particular concern in light of their massive departure from their principal traditional homeland, i.e. southeastern Turkey. The authorities explain this phenomenon exclusively in terms of economic considerations. Syriac representatives, on the contrary, are unanimous in pointing to political and religious factors, particularly the nationalistic policy of Turkization. According to them, this policy translates into a series of limitations and infringements: non-recognition of Syriac religious and cultural identity, occasional banning of the Aramaic language, and the prohibition of community social and educational institutions, as well as the Turkization of Syriac village names and of personal and family names. The situation is aggravated, according to the Syriac representatives, by the current conflict between the Turkish authorities and the Kurdish movements, including the PKK. The position of neutrality that the Syriacs have adopted has been mutually interpreted by the authorities and by the Kurdish movements alike as support for the enemy. Thus, the Syriacs have been subjected repeatedly to attacks by individuals and by armed bands who may take away their goods, abduct their daughters and force them to convert to Islam, and may even commit murder (see the communication of the Special Rapporteur, cited in E/CN.4/1995/91). This climate of violence has forced most Syriacs to leave southeastern Turkey. It must be added that there is social pressure everywhere, and particularly in the Southeast, reflecting a refusal to accept the local Syriac population, who are viewed as not conforming to the nationalist motto of "one nation, one race, one culture". This attitude, unfortunately, extends to certain authorities, particularly at the local level, who betray their rejection of this community in different ways. It must also be noted that there has

been no follow-up to any of the complaints that have been formally laid before the authorities concerning these serious violations of human rights. Most of the time, the central authorities simply deny the situation and invoke the economic underdevelopment of the country's southeastern region as the reason behind this community's departure. These authorities even accuse the Assyro-Chaldeans of fabricating complaints in order to obtain refugee status in Europe. In other cases, where evidence of oppression is particularly glaring, blame will be laid entirely on the PKK, while the local authorities are absolved of any responsibility.

121. When it comes to the situation of the Syriac community in Istanbul, it was found that some Syriacs have adopted a low profile, seeking to protect themselves through a degree of anonymity. Other Syriacs, apparently the majority, are hoping to leave Turkey, because of the rise of Islamism and the obstacles that the authorities are placing in the way of the community's attempts to maintain its religious and cultural identity.

122. While saying that they understand certain shortcomings of the State, and recognizing that it takes time to establish democracy, particularly in the setting of armed conflict that prevails in southeastern Turkey, the Orthodox Syriac representatives have formulated a very significant demand, which is that they be treated as full Turkish citizens, and not as outsiders.

V. Conclusions and recommendations

123. The Special Rapporteur presents below his conclusions and recommendations on Turkish legislation relating to freedom of religion and belief and on Turkish policy in this area, and finally on the situation of non-Muslim communities, in particular, with respect to freedom of religion and belief.

124. The Special Rapporteur is pleased to note that Turkey's legislation, and particularly its constitutional legislation, provides absolute guarantees of freedom of religion and belief and protects its manifestations (in particular freedom of worship), while imposing certain limitations (article 14).

125. Some of these constitutional limitations contain vague expressions that lend themselves to very broad interpretation which, in turn, may lead to extensive intervention by the State and hence excessive restrictions on freedom of religion and belief. This applies to the expression "violating the indivisible integrity of the State with its territory and nation" as well as the phrase "destroying fundamental rights and freedoms".

126. The Special Rapporteur recommends that precise terminology be devised and that legislation, including constitutional provisions, be interpreted in a manner consistent with international standards of human rights and with the jurisprudence and general comments of the United Nations Commission on Human Rights. The Commission, in its General Commentary No. 22 (48) of 20 July 1993, on article 18 of the International Covenant on Civil and Political Rights, declared that restrictions on the freedom to manifest religion or belief are permitted only if they are prescribed by law, are necessary to ensure public safety, order, health or morals, or the fundamental rights and freedoms of others, and are applied in a manner that does not vitiate the right to freedom of thought, conscience and religion. The Commission has also stated that restrictions must only be applied for the purposes for which they were prescribed and they must relate directly to the specific objective they are to serve, and be proportional to that objective. Restrictions may not be imposed for discriminatory purposes or in a discriminatory manner.

127. The Turkish constitution enshrines the principle of secularism in relations between the State and religion. The Turkish Constitutional Court has interpreted this secularism in accordance with the principle of neutrality, whereby, on one hand, religion is a personal affair and, on the other hand, no manifestation of religion may be restricted by the State except under precise conditions, namely the protection of public order and safety and the public interest, and only in a manner consistent with the jurisprudence of the Commission on Human Rights.

128. This interpretation, basing secularism on the principle of neutrality, would seem however to be contradicted by certain constitutional and legislative provisions that empower the State, through the Department of Religious Affairs, to structure Muslim religious affairs and to wield excessive powers of religious management such that religious practice appears to be regimented by the government and Islam is treated as if it were a "State affair". This situation is compounded by the attitude of the State which, in practice, promotes a Hanafi conception of Islam to the exclusion of any other interpretation, including that of

the Alawi rite, in the field of religious and ethical education, for example, but also in the organization and operations of the Department of Religious Affairs.

129. Thus, despite the proclaimed secular nature of the State, the treatment of Islam in Turkey, as described above, tends to give a quasi-official status, or at least a sufficiently prominent position, to Hanafi Islam. Secularism, the cornerstone of the Turkish State, also appears to be compromised by the optional mention of religion on identity cards, and by compulsory religious and ethics instruction. Consistent with the jurisprudence of the Commission on Human Rights, in its General Commentary No. 22 (48), the Special Rapporteur is not to pronounce himself on any State's system of government, whether theocratic or secular, but on its implications in terms of respect, i.e. non-violation, of rights pertaining to religion, belief and the status of minorities. In this light, there are indeed problems of varying degrees of importance, as described above.

130. On this point, the Special Rapporteur considers it essential that the jurisprudence of the Turkish Constitutional Court relating to secularism should be clearly and fully reflected in State policy concerning religion, in order to prevent any interference that would run counter to the limitations prescribed by international law.

131. On the issue of wearing the Islamic veil, in particular, such an approach would provide the authorities with a solid legal basis for addressing their legitimate concerns over the political exploitation of religion, while allowing free expression of dress within legitimate limits established to this end.

132. With respect to the compulsory religious and ethics courses called for in the Constitution, these pose a problem in that they affect:

- Non-Hanafi Muslims who are subjected to instruction that is based on a Hanafi conception of Islam and that does not reflect the diversity of Islamic rites within Turkish society;
- Non-Muslims, both indirectly, by promoting what most non-governmental sources regard as a message that is biased against non-Muslim beliefs, and directly, for those who decline to seek an exemption for fear of ostracism or public pressure, or who may find their exemption refused by certain officials; and
- Non-believers, mainly within the Muslim community.

133. The Special Rapporteur recommends that the authorities take steps to make education an effective vehicle for promoting human rights values, so as to help build a culture of tolerance and thus encourage behaviour consistent with tolerance and non-discrimination. Turkish education, and in particular the compulsory religious and ethics courses, should be free of any ideological framework and any political bias in favour of a particular religious persuasion, so as to guarantee the principle of educational pluralism (see in particular the jurisprudence of the European Court of Human Rights in the *Campbell and Cosans* decision of 25 February 1982, and the *Kjeldsen and others* ruling of 7 December 1976), and thereby respect the constitutional principle that all citizens are equal. It is also important to ensure that internal beliefs themselves may not be regulated or, in other words, that freedom from coercion to have or to adopt a religion or belief and the liberty of parents to ensure religious and moral education cannot be restricted, in accordance with law and with international jurisprudence.

134. With respect to the optional mention of religion on identity cards, the Special Rapporteur recommends that European jurisprudence be followed, and he awaits the results of the steps announced by the Ministry of Foreign Affairs to eliminate this mention.

135. The Turkish Constitution makes the nationalism of Ataturk the foundation stone of the State and elevates it in practice into an official ideology, or even a new religion, with the status of absolute truth. The terms of the issue as formulated in the jurisprudence of the Commission on Human Rights discussed above apply here as well and thus raise the question of respect for the rights pertaining to religion and belief and to minorities. There have been violations against Muslim communities and non-Muslim minorities, arising primarily from a narrow interpretation and application of the principle of nationalism, i.e. in the form of Turkization, that is not always compatible with the right to tolerance and to non-discrimination. The Special Rapporteur recommends that the authorities should establish a clear principle whereby nationalism is not to be used against minority religious communities.

136. When it comes to other legislative provisions, the Special Rapporteur is pleased to note that the Criminal Code punishes any attack on religion and religious manifestations. It should be noted that the penalty is increased in the case of defamation through the media. The Civil Code guarantees the principle of equality between the sexes and the Special Rapporteur looks forward with interest to the results of current efforts to prepare a new Civil Code.

137. Among the laws dealing with freedom of religion and belief, the Special Rapporteur is pleased to note that the 1965 law on the public service and the 1973 law on national education enshrine the constitutional principle of equal access to the public service and to national education, while the 1994 media law seeks to ban any act of blasphemy.

138. Other legislation, however, raises serious questions. For example, the law permitting the authorities to reject any given or family name considered contrary to the national culture would appear to reflect specific limitations and bias against minority communities, inspired by a policy of Turkization. Again, legislation on foundations and on the "non-utilization" of the property of non-Muslim minorities allows the State, in practice, to confiscate these properties. The Special Rapporteur recommends revision of the law on given names and of the law on unused properties to ensure that any expropriation by the State is based, first, on the principle of non-usurpation and, as far as possible, on the principle of consultation or consensus with the groups and communities concerned.

139. Finally, in accordance with the resolutions of the Commission on Human Rights (for example Resolution 1998/77 recognizing the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion) and General Commentary No. 22 (48) of 20 July 1993 of the Commission on Human Rights, and on the basis of the Turkish Constitution, which enshrines freedom of belief, the Special Rapporteur believes that regional characteristics and tensions are not sufficient to justify, in Turkey or anywhere else, a categorical rejection of conscientious objections, and recommends that legislation be adopted to guarantee the right to conscientious objections, particularly for religious beliefs.

140. The Treaty of Lausanne guarantees the principle of equality for all citizens, including non-Muslims, in the enjoyment of fundamental rights and freedoms, including religious freedom. Moreover, it accords to non-Muslims a minority status entitled to civil, political and cultural rights. This Treaty, however, suffers from certain gaps and weaknesses in the sense that the minorities concerned are not specified in even an indicative way. A logical interpretation would include all non-Muslim communities that were present in Turkey at the time the Treaty of Lausanne was signed. Yet the interpretation given by the Turkish authorities is restrictive and limited to the Armenians, the Orthodox Greeks and the Jews, and thus does not cover other communities that existed in Turkey even before the establishment of the Turkish Republic, such as the Assyro-Chaldeans and the non-Armenian Catholics. It is important to note that the notion of minority in enshrined only in the Treaty of Lausanne and is not recognized in any Turkish legislation, which means that minority Muslim communities and non-Armenian Protestant communities that have recently been established in Turkey are excluded.

141. The Treaty of Lausanne also declares general principles that require legislation and regulation to give them effect. It will be recalled that article 37 of the Treaty commits Turkey to ensure that provisions concerning non-Muslim minorities will be recognized as basic laws. Yet the minorities recognized as covered by the Treaty of Lausanne are affected, on one hand, by a juridical void in certain areas and, on the other hand, by legislation, regulations, jurisprudence and internal practice inconsistent with the Treaty of Lausanne (see sect. III and IV). The Special Rapporteur therefore recommends that the authorities accord the Treaty of Lausanne its rightful scope, and that they give it full application in domestic law and national practice. The Special Rapporteur also recommends to the Working Group on Minorities of the Sub-Commission on the Promotion and Protection of Human Rights that it decide, in light of international law, the interpretation that should be given to the notion of minorities in the context of the Treaty of Lausanne, and in particular that it identify the communities covered by the Treaty.

142. The policy of the Turkish State in matters of religion and belief, it must be said, is exceedingly complex and stands in sharp contrast with the categorical assertion by certain authorities that such policy is a model of tolerance and non-discrimination.

143. As Turkish history since the foundation of the Republic clearly demonstrates (and as is perhaps to be expected), the relationship between religion and secularism has never been an idyllic one. Nor, from the legal viewpoint, has it been governed by the principles of separation and neutrality. Secularism was vigorously enforced against religion until 1946, but with the introduction of a multiparty system in 1945 electoral competition led at times to the political manipulation of religion, and concessions began to be made to religion vis-à-vis secularism (for example, the victory of the Democratic Party in 1950 was seen by many as a triumph of religion over atheism, while in 1974 the role of the National Salvation Party in government resulted in the multiplication of schools for preachers and a pro-Islamic revision to school textbooks) and at other times to a reaffirmation of secularism over, or even against, religion (for example the military coup of September 1980, which claimed to be inspired by Kemalism).

144. In addition, attention must be drawn to the vigorous survival of religious traditions in rural areas, despite the coming of the Republic and of policies promoting modernization and education. Moreover, recent years have witnessed a renewed search for a strong Islamic identity in the major urban centres, where people have been more receptive to secular notions. Attention must also be drawn to the rise and expansion of Islamism, which is making itself felt particularly in heightened political militancy, the danger of which cannot be underestimated.

145. Finally, the active policy of Turkization, as an expression of nationalism, has meant that the great majority of society has come to regard citizenship solely in terms of Turkish ethnicity and Muslim identity.

146. Politics is thus the determining element with respect to religion: on one hand, the State, the guardian of secularism and defender of nationalism, has taken over responsibility for the majority religion, both within its own ranks and among the population, while on the other hand the political parties, including those of Islamist persuasion, use religion as a route to power. This situation not only affects strictly religious affairs but also has an impact on secularism and on healthy nationalism, and hence on all religious communities.

147. With respect to the majority, the Special Rapporteur understands the legitimate concerns of the authorities in the face of religious extremism, which cannot be tolerated since it leaves no room for human rights and stifles all expressions of diversity and pluralism. The Special Rapporteur nevertheless believes that the active role played by the State in religious affairs constitutes excessive interference not only in the way people manifest their belief but also against the very concept of freedom of religion and belief. This is true, for example, with the compulsory religious and ethics courses that have on occasion become tools of ideological indoctrination (see above). This situation weighs most heavily upon the minority Muslim communities, including the Alawi, in the sense that State intrusion into Muslim religious affairs leaves no room for the specific needs of the Alawis, particularly in terms of places of worship and religious education. Moreover, Turkization policies reinforce the discriminatory treatment of Alawis within Turkish society and even within the State (they have, for example, no representation in the Department of Religious Affairs).

148. When it comes to non-Muslims, with the notable exception of the Jewish minority, their situation poses a problem in terms of the principles of tolerance and non-discrimination, and is a direct result of State policies on secularism and nationalism, analyzed above. The political manipulation of nationalism (which may be linked, in part, to external events such as the European powers' intervention at the end of the Ottoman Empire on behalf of the Christian minorities, or to the Cyprus question) has made itself felt in particular, and in an intolerant and discriminatory way, against the Christian minorities. This particular form of nationalism pervades not only State institutions but society as a whole, and generally conveys a message that leaves no room for the Christian minorities. These policies have sparked the massive departure of members of these minorities from Turkey. The Special Rapporteur has examined the situation, distinguishing between the communities deemed to be covered by the Treaty of Lausanne and recognized as minorities, and those excluded from this category.

149. With respect to the Christian, Greek Orthodox and Armenian (Orthodox, Catholic and Protestant) minorities, it is useful to examine the situations that they face in common, as well as the specific circumstances of each group.

150. In the first place, representatives of these minorities say that they enjoy freedom of religion and worship but that they face problems affecting the

religious affairs of their community. The Greek Orthodox and the Armenian Orthodox Patriarchates and the Armenian Catholic and Protestant churches, however, do not have the status of corporate legal entities. They must therefore rely on foundations to acquire and manage their property. Yet these foundations are, on the whole, becoming increasingly ineffective because of the attitude of State institutions and the courts: the General Directorate of Foundations has been unilaterally confiscating the property of foundations, and other authorities have been preventing the election of boards of directors. The properties of these minorities are thus in a position where their future is very much in doubt, and indeed some have been confiscated, thereby depriving these communities of their principal source of revenue. With respect to educational institutions, minorities no longer have religious seminaries, and this poses a real threat to their ability to renew the ranks of their clergy and hence undermines the religious leadership and management of these communities. The Christian minorities face a number of difficulties with their schools: in some cases the authorities refuse to appoint headmasters from the community, and they are not allowed to accept students from outside their own community (which poses a particular problem for Armenian Catholic and Protestant children whose status is not recognized by the authorities — see para. 94). The procedures for electing Greek Orthodox and Armenian patriarchs also appear to have been affected, at various times, by interference from the authorities. Finally, freedom of worship is recognized for these minorities but is restricted to their places of worship, and any public show of religion is in fact severely discouraged by the authorities.

151. The specific situation of each minority may be described as follows:

152. As to the Greek Orthodox community, it must be said that it is slowly disappearing. Apart from the obstacles and the attacks discussed above, this fact can be explained by Turkey's religious policy, by limits on the citizenship status of Orthodox Greeks, and by the climate of insecurity felt by this community, given the State's failure to fulfil its responsibilities. Of course, this situation is primarily the result of relations between Turkey and Greece through the course of history, and in particular over the Cyprus issue, for which the Turkish Greek Orthodox community seems to be the scapegoat.

153. As to the Armenian minority (Orthodox, Catholic and Protestant), despite the fact that it is numerically the most important Christian community in Turkey, its position appears to be fragile and vulnerable. This situation, resulting from the facts presented above and from other particular problems (see paras. 80 to 95, in particular the problem of the taxes imposed on Armenian foundations, para. 88), reflects primarily the historical burden of relations between Turkey, heir to the Ottoman Empire, and the Armenian community in Turkey, in Armenia, and abroad.

154. As to the Jewish minority, the Special Rapporteur notes that its representatives have insisted that its situation is satisfactory. This may be explained in large part by the fact that, in contrast to the Armenians and the Greeks, the Jews have made no claim to lands within Turkey, and also by the close relations between Turkey and Israel.

155. As to the Christian minority communities not recognized by the Turkish authorities as covered by the Treaty of Lausanne, their situations vary greatly.

156. The non-Armenian Catholics enjoy freedom of religion and worship, but they encounter the same difficulties and obstacles as those facing "official" minorities. This community is therefore very fragile.

157. The Turkish Protestant Church faces numerous difficulties related both to its recent establishment in Turkey and to its religious activism. It has been denied legal recognition and cannot conduct its activities officially as a Protestant community (notably when it comes to acquiring places of worship and other properties). Its increasingly visible expansion arouses negative reactions, particularly among the authorities, who are committed to a restrictive interpretation of secularism and nationalism (and who have closed places of worship and ordered arrests).

158. The Syriacs, and in fact the entire Assyro-Chaldean community, seem to be gradually disappearing. In the first place, this community faces all of the problems described above: they are not recognized as a minority under the Treaty of Lausanne, although they have been present in Turkey for centuries; they have no legal status as a community; they are denied the right to their own educational, social, charitable and health institutions, and have no religious training seminaries; their places of worship are subject to confiscation and they are prevented from renovating those properties or from building new ones.

In addition, they have on a number of occasions been denied the right to teach the Syriac religion, even within their churches and monasteries, while their demands for exemption from religious instruction in the public schools are often ignored. All of these obstacles and restrictions can be explained essentially by the policy of Turkization and by the failure to recognize the Assyro-Chaldeans as a distinct religious and cultural community. To these factors must be added the impact of the armed conflict between the Turkish authorities and Kurdish insurrectionists that has placed the Assyro-Chaldeans in a climate of constant fear from acts of terrorism (assault, robbery, assassination, abduction, forced conversion to Islam, etc.) and has provoked their massive departure from southeastern Turkey. It is also true that this community is rejected by society and by the local authorities, who are generally intolerant of any minority that does not conform to the stereotyped imperatives of the Turkization policy (i.e. to be Turkish by ethnic origin and to be Muslim by religion). This situation is at its worst in eastern Turkey, but it is also reflected in Istanbul, where most Assyro-Chaldeans migrate, and where the rise of Islamism is also viewed as a threat. Finally, the Assyro-Chaldeans feel that they are treated as foreigners, and in growing numbers they are leaving Turkey in the hope of preserving their cultural and religious identity.

159. The Special Rapporteur recommends that the authorities guarantee, respect and protect the rights of minority religious communities.

160. The following recommendations are made to the Turkish authorities with respect to the Christian, Greek Orthodox and Armenian minorities:

(a) The Government should take all necessary steps to prevent and eliminate the discrimination that results from the progressive and de facto refusal to grant and allow the use of an appropriate legal entity structure: this situation affects a whole range of legitimate religious activities such as the acquisition and management of property, financial support of the clergy and other religious personnel, etc.

(b) The Government should ensure that the legal entity structure itself, in this case the foundations, responds to the basic needs of minorities (and they should remove any obstacle to the functioning of these foundations, such as legal and de facto restrictions on the election and replacement of boards of directors) and if necessary they should improve this legal mechanism, or even grant legal status to the religious leadership of these communities, i.e. the Patriarchate, if these foundations should be found ineffective or inappropriate.

(c) In addition to the recommendation concerning legislation on unused properties, the Government should ensure that public institutions, in particular the General Director to Foundations, do not discriminate against Christian minorities. It is essential that these institutions should cease to deprive these minorities of their property and the resources needed for them to function and to conduct their religious activities.

(d) The Government should guarantee minorities the right to establish and maintain their own places of worship, and should allow them to build such facilities in places where new communities have taken root. Any limitations in this respect, for example urban development regulations, should be consistent with international jurisprudence (see General Commentary of the Commission on Human Rights), and this means that any non-conforming regulations should be repealed or revised.

(e) The Government should guarantee minorities the right to teach their religion, in places suitable for this purpose, and to train their clergy. The Special Rapporteur believes it indispensable that minorities once again have their own religious seminaries, in accordance with article 6 of the 1981 Declaration and the General Commentary No. 22 (48) of the Commission on Human Rights ("the practice and teaching of religion and belief includes acts integral to the conduct by religious groups of their basic affairs, such as, inter alia, the freedom to choose their religious leaders, priests and teachers, the freedom to establish seminars or religious schools...").

(f) The Government should guarantee the proper functioning of minority educational establishments, by removing obstacles to the appointment of headmasters. The issue of enrolment for children not belonging (or not recognized by the authorities as belonging) to the minority running these establishments (as is the case with Armenian children) should be examined by the Working Group on Minorities of the Sub-Commission on the Promotion Protection of Human Rights, and by the Special Rapporteur on Education.

(g) The Government should guarantee non-intervention in the internal affairs of minorities, in particular in the election and appointment of religious leaders.

161. With respect to all of the above points, the Special Rapporteur believes that the State should establish precise rules to protect the fundamental rights of minorities, as derived from the Treaty of Lausanne and from international law. These rules should be defined in consultation with minority representatives, they should be guaranteed in the form of regulations and laws and they should be enforced by policies and administrative actions that are respectful of minority rights.

162. With respect to the Greek Orthodox and Armenian minorities, the Special Rapporteur considers it essential that the guarantee of their rights should not be conditional upon the status of relations between Turkey and Greece, on one hand, and of those between Turkey and Armenia and its diaspora, on the other. In this regard, the State must live up to its responsibilities to protect minorities against all acts of aggression and violence.

163. With respect to the minority communities not recognized as such or not deemed to be covered by the Treaty of Lausanne, the recommendations outlined above are relevant for non-Armenian Catholics.

164. With respect to the non-Armenian Protestants, the Special Rapporteur recommends that the Government provide a full guarantee of this religious community's rights. To this end, owing to the fact that the enjoyment of rights to religious freedom depends in critical ways on the legal structures available to religious communities to organize their affairs, it is essential for the Protestants to have appropriate legal mechanisms for acquiring and managing their own properties, including places of worship. It would seem that the current device, i.e. the creation of associations, is inadequate in light of existing legal restrictions that make it impossible to establish religious associations. In any event, a legal entity that will meet the needs and respect the rights of all religious communities is strongly recommended. This would also help to minimize the risk of interference by the authorities, especially the police.

165. The recommendations for treating Protestants as a legal entity are equally applicable to the Assyro-Chaldeans and are in fact essential for maintaining the cultural and religious identity of this community. Regardless of the issue of recognition of its minority status, this community has a legal structure that allows it to have its own educational, social and religious training institutions. As in the case of the Armenian minority, the Special Rapporteur recommends that the Government should satisfy legitimate demands for the construction of new places of worship, in particular in Istanbul. It is also urgent to put a stop to the arbitrary and discriminatory confiscation of Assyro-Chaldean places of worship by the General Directorate of Foundations and to the abuse of power in procedures for authorizing the renovation of religious establishments. The recommendations made with respect to instruction and religious culture are relevant here as well. Furthermore, while appreciating the situation created by the armed conflict in southeastern Turkey, the Special Rapporteur believes that the State must fulfil its responsibilities to protect the Assyro-Chaldeans and to identify and prosecute those who violate their human rights.

166. The Special Rapporteur also offers the following general recommendations, applicable to all religious communities in Turkey:

(a) The Government should ensure that Islam does not become a political tool, a situation that could escalate in ways that would promote religious extremism;

(b) The Government should combat all manifestations of intolerance whenever they appear;

(c) The Government should combat extremism in all religions, wherever it appears, while respecting international human rights standards and being careful not to affect minority religious communities, directly or indirectly, in the enjoyment of their legitimate rights and freedoms;

(d) The Government should take all necessary measures, consistent with international human rights standards, to combat hatred, intolerance and acts of violence, intimidation and coercion motivated by religious intolerance;

(e) The Government should ensure both more legal protection against discrimination based on religion or belief, and the implementation and respect of these legal safeguards;

(f) The interpretation of the constitutional principles of secularism and nationalism, and policies

for implementing them, must not affect religious communities, and in particular minority religious communities, whether in their enjoyment of their rights, including religious rights (deriving either from minority status or from citizenship) or in their ability to integrate naturally into Turkish society, of which they are a fundamental component, and they must be allowed to maintain their own identity;

(g) Minority religious communities should be protected from any political manipulation in the context of Turkey's foreign affairs;

(h) The Government should undertake a true dialogue with minority religious communities so as better to understand their needs and to promote a climate of respect and trust;

(i) The Government should provide for the effective protection and promotion of religious diversity, by ensuring respect for diversity both between and within different religions. It is particularly important that the State should allow room for the Alawis to express their religion;

(j) A broad campaign should be undertaken to educate and sensitize society and its different components to the values and principles of tolerance and of non-discrimination with respect to minority religious communities and to counter religious fanaticism, whether in the media, in the schools (curricula and textbooks) or in political debate. In this respect, it is particularly important for the Government to ensure that religious instruction, whatever the religion concerned, provided in public and private institutions alike is such as to foster tolerance and non-discrimination and that it is not used to promote extremism and intolerance;

(k) Turkey should take advantage of the technical cooperation services of the United Nations High Commissioner for Human Rights in the area of freedom of religion and belief, with particular attention to minorities.

Annex

Meeting of Religions in an Era of Faith and Tolerance (Tarsus, 10 and 11 May 2000)

We would like to state that the "Meeting of Religions in an Era of Faith and Tolerance" which took place between 10-11 May 2000 in Tarsus, under the auspices of the Presidency of Religious Affairs is a universal step contributing to peace for the people of our country and for humanity. The site of the meeting, Tarsus, is significant because this town is not only a part of Anatolia which is a cradle for many cultures and religions but also a place where leaders of Christian religion such as St. Paul, prominent figures of Islam and some Prophets chose to live.

Religion is a significant reality, which seriously influences human life. To put it differently, religious conviction is one of the most important causes of social differentiation.

We would like to declare to the world once more that we live in peace and repose today as members of different religions in this country where many historical experiences occurred and people from various origins and religions co-existed in peace and lived together. While stating this we do not overlook the existence of certain difficulties.

There are some problems regarding freedom of religion and conscience, freedom of faith, education, culture and religious practices in all parts of the world. However, these problems are not insurmountable. Significant progress is being observed in the process of democratisation. Impacts of these developments can only be overcome by patience and tolerance. We are happy to observe that representatives of religions have the intention of co-operation in this process. The "International European Union Council" meeting, 3-7 May 2000, Istanbul and the "Meeting of Religions in an Era of Faith and Tolerance" 10-11 May 2000, Tarsus, both of which were organized by the Presidency of Religious Affairs are clear indications of a good intention in this regard.

History provides us with many examples, which show that different religions and ideas lived together in peace. However, history also shows us that there have been conflicts and wars between religions. We also know that even co-religionists have disputes and conflicts among themselves. Yet, what causes conflicts and creates hostility among us is not our religious faith but those who fail to understand their religions properly, adopt an extremist path or use their religions for their own interests.

Moreover, misunderstanding or lack of information about other religions also contributes to these conflicts.

Solution of these problems requires teaching of all religions correctly as well as teaching other religions neutrally. As religious representatives who are aware of our responsibilities, we would like to emphasise that we are determined to work together to remove the errors.

Inter-religious dialog does not mean to unite religions or melt them in a pot. Inter-religious dialog is a search to discuss issues of common interest and an effort to find ways of cooperation in tolerance and mutual understanding while preserving all differences without forcing one another.

During the process of this search one should emphasise common interests rather than differences. Therefore religious leaders have important tasks in this process. Indeed it is well known that Abrahamic religions to which we belong, invite human beings to peace and love. Religious leaders and clergy should spread messages of peace and love in an age when humanity is in need of these more than ever.

Members of religions should also work together against dangers such as atheism, drugs, hunger, war, violence, terrorism and xenophobia which cause disappearance of love among people.

We declare our wish to the public with respect that the common step we have taken here with this belief and determination should be continued.

Mehmet Nuri **Yilmaz**, President of Religious Affairs of Turkey

Bartolemeos I, Greek Orthodox Patriarch, Istanbul

Mesrob II, Patriarch of Turkish Armenians

Ishak **Haleva**, Vice Chief Rabbi in Turkey

Metropolitan Filüksinos Yusuf **Çetin**, Vice Patriarch of the Syriac Orthodox Community

Louis **Pelatre**, Spiritual Leader of the Latin Community, Istanbul

Kostantin **Kostof**, Priest, Bulgarian Orthodox Church

Yusuf **Sağ**, Vice Patriarch of the Syriac Catholic Community

François **Yakan**, Vice Spiritual Leader of the Chaldean Community

Apraham **Firatyan**, Vice Spiritual Leader of the Catholic Community (Armenian)

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Elimination of all forms of religious intolerance

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly Addendum 2 to the interim report on the elimination of all forms of religious intolerance, prepared by Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 54/159 of 17 December and concerning his visit to Bangladesh of 15-24 May 2000.

* A/55/150 and Corr.1 to 3.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 9 August 2000 so as to include as much updated information as possible.

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Interim report of the Special Rapporteur of the Commission on Human Rights on the elimination of all forms of intolerance and of discrimination based on religion or belief

Addendum 2

Situation in Bangladesh

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I. Introduction

1. From 15 to 24 May 2000, the Special Rapporteur on the elimination of all forms of intolerance and of discrimination based on religion or belief visited Bangladesh, at his own request, and at the invitation of the Government of Bangladesh. The Special Rapporteur visited Dhaka (15 to 21 May, 24 May) and the Chittagong Hill Tracts in Rangamati (21 to 23 May).

2. During this visit, the Special Rapporteur spoke with government authorities (Minister of Foreign Affairs, Minister of Religious Affairs, Minister of Justice, Minister of Education, Minister for the Chittagong Hill Tracts, Secretary for Foreign Affairs, Secretary for the Interior, Secretary for Women and Children, Secretary for the Chittagong Hill Tracts), the Chief Justice and authorities of the Chittagong Hill Tracts (Deputy Commissioner; Mr. Shantu Larma, President of the Regional Council; and representatives of the Rangamati Hill Council District). He also spoke with a representative of the Islamic Foundation in Dhaka.

3. The Special Rapporteur was also able to speak with representatives of the Muslim community and of the Buddhist, Christian, and Hindu minorities, and also met with representatives of the ethnic[1] communities (essentially those living in the Chittagong Hill Tracts). Lastly, the Special Rapporteur met with a number of non-governmental organizations (such as Ain o Salish Kendro (ASK), the Coalition for Human Rights (ODHIKAR), and Land Rights and Development, as well as a number of experts and prominent personalities (including Kamal Hossain, Special Rapporteur on Afghanistan and former Bangladeshi Minister of Foreign Affairs) and visited several places of worship.

4. The Special Rapporteur would like to thank the authorities for their full cooperation during this visit, which he was able to conduct in complete liberty and without hindrance.

5. The Special Rapporteur focused his attention on the legal aspects of freedom of religion or belief, on the influence of politics on the freedom of religion or belief, as well as on the status of women.

6. The Special Rapporteur would like to begin by presenting the following data and statistical considerations. According to the most recent census carried out in Bangladesh, in 1991, the religious distribution among the population is as follows:

– Muslims	88.3 per cent
– Hindus	10.5 per cent
– Buddhists	0.6 per cent
– Christians	0.3 per cent
– Other religions	0.3 per cent

7. This census does not include information about non-believers. According to the Minister of Education and representatives of non-governmental organizations interviewed, there are very few atheists in Bangladesh. Most atheists are members of elite circles, and do not publicly admit their belief, because this would be perceived negatively by society.

8. The Ministry for Foreign Affairs provided the following statistics about places of worship and religious officials.

Places of worship	
Mosques	192,800
Temples	20,000
Pagodas	1,700
Religious officials	
Imams	192,800
Porohits (Hindu)	20,000
Shromon/Vikhu	3,500

The Ministry for Foreign Affairs informed the Special Rapporteur that he had no information concerning Christian places of worship or Christian religious officials.

9. We should note that whereas Muslims, Hindus, and Christians are distributed across the entire country, Buddhists live mainly in the Chittagong Hill Tracts.

10. In order to give a more accurate impression of this religious landscape, we should also mention

[1] The Special Rapporteur has used the term "ethnic communities" subject to the clarifications to be found later in the report, and with the understanding that the terms used by indigenous populations are also pertinent. The term "tribes" was also frequently mentioned during the Special Rapporteur's consultations.

Bangladesh's ethnic communities, which make up slightly more than one per cent of the population and are mostly located in the Chittagong Hill Tracts and on the plains of the Greater Dinajpur, Rajshashi, Mymensingh, Sylhet, and Tangail Districts. According to information gathered from non-governmental sources, those ethnic groups are the Bongshi/Rajbongshi, Bawm, Buna, Chakma, Koach/Koch, Garo/Mandi, Hajong, Harizon, Khami, Khasi/Khasia, Khyang, Lushai, Mahat/Mahatu, Marma, Manipuri, Mro, Mong, Munda/Mundia, Murang, Pahari/Paharia, Pankue/Pankho, Pathor, Rajbansi, Sak, Saontal/Santal, Tanchangya, Tipra/Tripura, Urang/Oraon, Uruo/Urua/Uria, etc. Among these communities, the largest are, in descending order, the Chakma, the Santal, the Marma, the Tipra, and the Garo. With regard to the Chittagong Hill Tracts, non-governmental specialists say that whereas the Marma, the Chakma and the Tanchangya are Buddhist communities, smaller ethnic communities that were originally animist, such as the Bawm, the Lushai, and the Pankho, are gradually converting to Christianity, as a result of missionary activity. Outside the Chittagong Hill Tracts, the Garo (who have their own religious traditions, which are reminiscent of animism) are mostly Christians. According to the same sources, the Koch, Hajong, Pathor and Manipuri are Hindu communities. The Santal have preserved their animist traditions, but they have been influenced by Hinduism, and some have converted to Christianity. According to the experts consulted, conversion to Christianity has been taking place since the British colonial period, and that this process was preceded by the spreading of Hinduism in the northern and north-eastern border regions, and of Buddhism among the Chittagong Hill Tracts. There have been very few conversions to the Muslim faith.

11. With respect to the Chittagong Hill Tracts, the Special Rapporteur obtained non-governmental estimates indicating that ethnic communities, which formerly accounted for most of the population (97.3 per cent in 1947), presently account for 50 per cent of the population, due to the large (mostly Muslim) Bengali community. According to information provided by the Ministry for Foreign Affairs, the 1991 census found the following distribution of religions in Rangamati: 26,382 Muslims, 8,871 Hindus, 12,006 Buddhists, and 217 Christians. The same sources gave the following figures for the number of religious institutions in the Rangamati Municipal Area: 31 mosques, 8 mandirs, 10 Buddhist temples, 2 churches, 2 *madrasahs*, 4 orphan centres, 26 *maktabs*, 5 Muslim graves, 3 burning yards, and 1 Christian grave.

II. Legal aspects of freedom of religion or belief

12. Before we consider the Constitution and other legislation, we should note that Bangladesh is a party to the following international human rights instruments: the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the Convention on the Political Rights of Women; the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; the Convention on the Prevention and Punishment of the Crime of Genocide; the International Convention on the Suppression and Punishment of the Crime of Apartheid; the Slavery Convention; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and the Convention for the Suppression of Traffic in Persons and the Exploitation of the Prostitution of Others.

A. Constitutional provisions

13. The Constitution approved by the Constituent Assembly of Bangladesh on 4 November 1972 and promulgated on 16 December 1972 was suspended on 24 March 1982 by a military coup d'état, and then restored on 10 November 1986. Articles 39 and 41 of the Constitution guarantee freedom of religion and conscience and their manifestations, while defining certain limits.

14. Article 39 guarantees (a) freedom of thought and conscience; (b) the right of every citizen to freedom of speech and expression; and (c) freedom of the press, subject to any reasonable restrictions imposed by law in the interest of the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

15. Article 41 provides that subject to law, public order and morality, (a) every citizen has the right to profess, practise or propagate any religion; (b) every religious community or denomination has the right to establish, maintain and manage its religious institutions; and that no person attending any educational institution shall be required to receive religious instruction, or to attend any religious ceremony or worship, if that instruction, ceremony or worship relates to a religion other than his own.

16. The Constitution guarantees the principle of non-discrimination (Articles 10, 27 to 29, and 121).

17. Article 10 provides that steps shall be taken to ensure participation of women in all spheres of national life.

18. Article 27 provides that all citizens are equal before law and are entitled to equal protection of law.

19. Article 28 provides that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth; women shall have equal rights with men in all spheres of the State and public life; no citizen shall, on grounds only of religion, race ... be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

20. Article 29 provides that there shall be equality of opportunity for all citizens in respect of employment or office in the service of the Republic; no citizen shall, on grounds only of religion, race, caste, sex or place of birth, be ineligible for, or discriminated in respect of, any employment or office in the service of the Republic; nothing in this article shall prevent the State from ... giving effect to any law which makes provision for reserving appointments relating to any religious or denominational institution to persons of that religion or denomination.

21. Article 121 provides that there shall be one electoral roll for each constituency for the purposes of elections to Parliament, and no special electoral roll shall be prepared so as to classify electors according to religion, race, caste or sex.

22. The Constitution accords a special role to Islam, which is defined as the State religion.

23. The Amendment of 1977 defines the Muslim faith as one of the nation's guiding principles. Article 8, paragraph 1 of the Constitution provides that "The principle of absolute trust and faith in Almighty Allah ... together with the principles derived from them as set out in this part, shall constitute the fundamental principles of state policy" ("Absolute trust and faith in the Almighty Allah shall be the basis of all actions"). This Amendment abrogated Article 12 of the 1972 Constitution, which stipulated:

> The principle of secularism shall be realized by the elimination of communalism in all its forms; (a) the granting by the State of political status in favour of any religion; (b) the abuse of religion for political purposes; (c) any discrimination against, or persecution of, persons practising a particular religion.

24. The Amendment of 1988 states the State religion of the Republic is Islam but other religions may be practised in peace and harmony in the Republic (Article 2.A). Article 25, paragraph 2 provides that the State shall endeavour to consolidate, preserve and strengthen fraternal relations among Muslim countries based on Islamic solidarity.

25. The Chief Justice has stated that the Amendment of 1988 had no legal consequences with respect to religious communities, especially minorities, nor with respect to the country's jurisprudence. He further stated that in any case, the Constitution stipulated that Bangladesh was bound by the international instruments it had signed. He added that the sharia did not constitute the basis of the country's legislation.

B. Other legal provisions

26. According to information gathered from the authorities and from non-governmental organizations, there is no specific law regulating freedom of religion and belief. However, there are laws in force protecting religion or having an impact either in areas perceived as being a matter for religious officials, or on minority religions. There are also a number of *religious personal laws*.

1. Religious personal laws and other rules of positive law

27. Religious personal laws, also known as family laws, relate for each community (Muslim, Christian, Hindu and Buddhist) to personal matters such as marriage, divorce, dowry, maintenance, guardianship,

inheritance, and restitution of conjugal life. These religious personal laws thus regulate specific questions, and are unique to each community, while civil and criminal law applies to everybody, regardless of religious affiliation. Asked by the Special Rapporteur whether such religious personal laws (for example, the discrimination against women in certain areas of Muslim and Hindu Family Laws, see sect. V) were compatible with the constitutional principle of equality and with international human rights instruments, the Ministry for Women and Children and the Chief Justice replied that no difficulty arose in this regard. It appears, on the basis of the consultations held with these authorities, that religious personal laws conform to the constitutional principle of equality, on the grounds that religions do not discriminate on the basis of gender, and that positive-law legislation guarantees the principles of the Constitution, especially equality based on gender. The Secretary for Women and Children said that polygamy was not contrary to human rights, firstly, because of it conformed to Islam, and secondly, because under the positive-law provisions regulating polygamy, husbands were obliged to request permission from the first wife before taking another wife. The Ministry for Foreign Affairs explained that religious personal laws applied in specific areas, such as marriage and divorce, and that it was also possible to appeal to positive law and, in accordance with the Constitution, to appeal to the courts whenever a dispute arose. The Secretary for Women and Children and her colleagues explained that, for example, divorce could, under Muslim Law, occur through repudiation of a wife by the husband, but that in order to protect the woman from all forms of arbitrary divorce, there was a law stipulating that such divorces should be granted by a court (the aim being to ensure that women were able to enjoy certain rights, such as a pension). It was emphasized that religious personal laws may not be infringed.

28. According to Law Professors at the University of Dhaka, the country's Jurisprudence has made considerable progress, with judges increasingly disposed to give precedence to constitutional provisions regarding non-discrimination (Articles 27-29) and to the right to the protection of the law over all incompatible provisions of religious personal laws (Article 31: To enjoy the protection of the law, and to be treated in accordance with law, and only in accordance with law, is the inalienable right of every citizen, wherever he may be ... and in particular no action detrimental to the life, liberty, body, reputation or property of any person shall be taken, except in accordance with law). The Professors also noted that precedents had been obtained in the area of childcare (the High Court judgement on child custody in the case of Abdul Jalil and others v. Mrs Sharon Laily Begum (civil) established equal rights for Muslim women in this respect; Bangladesh Legal Decision, BLD, vol. 18, AD 1998:21). However, the consultations revealed that greater progress was needed, both with respect to all communities (including minorities) and with respect to all problematical areas, such as inheritance (see sect. V).

2. Penal code

29. The penal code provides measures specifically related to freedom of religion and its manifestations. Article 295 provides for imprisonment of a maximum of two years, and/or a fine, in the case of any attack on places of worship and sacred objects (for example, by acts of destruction or other damage). Article 295.A provides for the same penalties in the case of any insult — whether actual or intended — directed against religious beliefs or feelings. Article 296 protects religious worship and religious ceremonies against any attack, and punishes such attacks with a prison sentence of a maximum of two years and/or a fine. Article 297 sanctions in particular any act of desecration — for example of a tomb or a place of worship — with penalties identical to those provided for under Article 296. Lastly, Article 298 provides for imprisonment of a maximum of one year, and/or a fine, in the case of any intention to offend against a person's religious feelings — notably by means of a sound, a word, a gesture or an object.

3. Vested Property Act

30. According to information provided by non-governmental sources, the Vested Properties Act derives from the Enemy Property (Custody and Registration) Order II of 1965, promulgated in Pakistan following a brief war between India and Pakistan in September 1965. According to the information received, this order was directed against the Hindu minority (perceived as an enemy), and was used as an instrument for appropriating land belonging to Hindus accused of supporting India.

31. After Bangladesh won independence from Pakistan, the President of Bangladesh, in his Order

No. 29 of 1972, changed the nomenclature to Vested Property Act, without altering the content of the law. According to information from non-governmental sources, the Government of Bangladesh has, within the framework of this law, taken possession of property declared to belong to the enemy, by appropriating the property of members of the Hindu minority who had migrated to India, or by appropriating the property of people who were heirs or co-owners. Furthermore, to this day, interest groups and individuals continue to appropriate property belonging to the Hindu community, and indeed to do so with the complicity of the authorities and of influential people. In a significant number of cases, Hindus are dispossessed of their property, even when they are the legal owners of such assets. According to non-governmental sources, Clause 2 of Order No. 29 of 1972 states that none of these grounds may be challenged by a court. Furthermore, neither the Order nor the Vested Property Act has ever been revised.

32. According to the non-governmental sources, at least two million acres of land have been seized from Hindu landowners under the Vested Property Act. This law represents a major source of insecurity and of human rights violations against the Hindu community. It also affects the northern Hurukh/Oroan tribes, which are not Hindu, but are perceived as such because of their Hindu roots. In the view of non-governmental organizations, it is therefore clear that the Vested Property Act is detrimental to minorities and to the religious harmony of Bangladesh.

33. In December 1998, the Government set up a parliamentary subcommittee under the Ministry of Land, to repeal the Vested Property Act and reinstate the vested property to the original owners. This committee has prepared a bill, which is due to be presented to Parliament. It appears, however, that this bill would present serious problems. According to the non-governmental sources, the bill provides that properties legally vested under the ownership of the Government and those declared to be enemy or vested property after 16 February 1969 will not be considered as vested property after the said period. Most Hindu property, however, was declared vested property after that date. The bill also states that the proprietorship status of the vested property will not be challenged if the property was transferred to the Government, a government institution, or to a private individual, has been sold or has been handed over permanently by the Government at the directives of a court. It will not even be possible to challenge such cases in court. According to the non-governmental organizations consulted, these provisions are contrary to the spirit and objectives of the bill. The bill also provides that if the original owners do not submit their ownership documents to a court within 180 days following promulgation of the law, their property will be acquired by the Government. This time period is considered too short by the Hindu community. Lastly, the bill provides that in the event of the decease of the original owner, rights of inheritance shall apply in accordance with Hindu religious personal laws. Hindu women would therefore be automatically excluded from inheritance, since Hindu religious personal laws do not accord any rights of inheritance to women. The bill, which is still in the study phase, therefore presents major difficulties.

III. Influence of the political sphere on freedom of religion or belief

A. Consultations with the authorities

34. Most of the official sources consulted — the Minister of Foreign Affairs, the Minister of Justice, the Minister of Religious Affairs, the Minister for the Chittagong Hill Tracts, the Secretary for the Interior, and the Chief Justice — said that the Government was in favour of secularism, and operated within the framework of the Constitution, which was based on the principles of non-discrimination and freedom of religion and belief. They believed that Bangladesh was a country characterized by harmony among the various religious communities, and especially between the Muslim majority and non-Muslim minorities.

35. The Minister of Religious Affairs noted that freedom of religion and of religious practice was guaranteed under constitutional and penal laws, as well as under religious personal laws, and that each community had a right to define its own religious institutions. He said that the State would not interfere in communities' internal religious affairs. He added that public funds were allocated to these communities (including the Islamic Foundation, Buddhists, Hindus, and Christians) and that these funds were regulated by Government ordinances (for example, the Hindu Religious Welfare Trust Ordinance of 1983, amended by the Ordinances of 1985, 1986 and 1989; the Buddhist Religious Welfare Trust Ordinance 1983).

The Special Rapporteur obtained information about the budget allocation for the welfare of religious institutions in the fiscal year 1999-2000: Muslims Tk 32,500,000; Hindus Tk 7,000,000; Buddhists Tk 1,500,000; Christians, Tk 500,000. Statistics were also provided regarding civil servants, showing the participation of religious groups in the Government (total workforce 4,286; Hindus, 410 or 9.6 per cent); Buddhists, 24 or 0.65 per cent; Christians, 5 or 0.11 per cent); and regarding government holidays to mark religious occasions (government holidays in general applicable to all: Muslim, 4; Hindu, 2; Buddhist, 1; Christian, 1; optional holidays applicable to the religious groups concerned: Muslim, 7; Hindu, 10; Buddhist, 4; Christian, 8.

36. The Minister of Foreign Affairs said that there had been incidents in the past, such as certain tensions among ethnic groups in the Chittagong Hill Tracts, and the isolated reactions of fanatics against the Hindu minority during the destruction of the Ayodhya Mosque in India. A Ministry for Foreign Affairs representative explained that the Government was doing its best to promote harmony in the community, and especially, like any other country, to combat any discrimination resulting from the weight of certain traditions, whose eradication would involve a lengthy process. He recalled the historical context of Bangladesh's accession to independence, which occurred within the context of enormous sacrifices and a struggle for democracy and freedom, including religious freedom. Stressing the difficult economic and social conditions in Bangladesh, which are common to all developing countries, he explained that the Government's efforts were aimed at demarginalizing poverty-stricken populations (especially through women's education programmes), and that this approach would help combat all forms of discrimination. He said that despite its economic problems, Bangladeshi society was both traditional and religious, and both tolerant and liberal. He noted that there were incidents involving minorities, but that the vast majority of incidents involved Muslims. The Minister of Foreign Affairs described the present situation as one of total harmony, especially with regard to the country's ethnic communities. He said that this was due in particular to the political solution provided by the Government to the question of the Chittagong Hill Tracts (a solution involving various measures, including promulgation of laws in favour of ethnic communities, the creation of a Ministry for the Chittagong Hill Tracts, and a process aimed at restoring land to the ethnic communities).

37. The Minister of Justice stated that the conflict in the Chittagong Hill Tracts (see also sect. IV.C) was not based on religion. The Ministry and Secretary for the Chittagong Hill Tracts explained that since the signing of the 1997 Peace Accord, relations between Muslims and tribes of different religious confessions — Buddhist, Hindu, and Christian — were harmonious. Furthermore, all confessions were able to practise their religion under a secular regime. The Deputy Commissioner for Rangamati made a similar assessment. The Minister and Secretary for the Chittagong Hill Tracts noted that the Peace Accord was clearly being respected and applied, notably through the allocation of credits for development activities and for the restoration of temples destroyed during the conflict; the return of 64,000 refugees, who were provided with State assistance; the restoration of a civil administration committed to human rights and secularism; the withdrawal of over 70 military camps; and the establishment of a Land Commission, which was due to visit Chittagong shortly, in order to begin working towards a solution to land-related issues. Asked by the Special Rapporteur about allegations of human rights violations in the Chittagong Hill Tracts (see sect. IV.C), the Minister for the Chittagong Hill Tracts replied that army factions hostile to the ethnic communities had been rooted out, while the Secretary replied that he had not received any reports of forced conversions to Islam organized by Muslim extremists. The Minister of Religious Affairs said that all citizens — including Muslims — were free to change their religion, that the State was not in any way involved in the alleged cases of forced conversion, and that anyway, people did have the option of appealing to the courts. With respect to an alleged attack on a church in Rangamati, the Ministry for Foreign Affairs replied that according to the record of the Rangamati Pourashava and the testimony of Mr. Sankar Prashad Barua, a staff member of the Purashava Office, a Christian hostel at Bhandhiu Jishu Tila, in Rangamati Municipal Area, was partially damaged by a sudden outbreak of fire on 2 September 1999. A representative of the Ministry of Foreign Affairs stressed that the question of the Chittagong Hill Tracts was complex, but that the Government was sincere in its application of the 1997 Peace Accord, a process that required time. He considered that this was an ethnic problem, not a religious one.

38. Following his visit, the Special Rapporteur received a note from the Ministry for Foreign Affairs, stating:

> The policies and programmes of the Government are designed to enlarge, and not restrain, freedom and essence of democracy with the prevalence of the views of not just the majority but the consideration of the opinion of the minority as well, be it religious or ethnic. The peacefully negotiated political solution to the Chittagong Hill Tracts issue is a unique example set, of providing, if not equal, but greater rights and opportunities to the minority tribal population, of primarily Buddhist origin in Bangladesh. The Government is fully committed to the protection and preservation of the socio-cultural heritage, including religious festivities of the tribal population of the CHT by providing fiscal, educational and social privileges and benefits to members belonging to different tribes and religion. The government allocated Tk 11,500 million in 1999-2000 for development activities in the CHT, which is considerably higher than the per capita annual budget spent for the socio-economic development in other non-tribal districts in the country.
>
> The population density of the CHT area is only 78.2 persons per square kilometre, as compared to the much higher 755 persons per km^2 density nationally. The forestry resources in the area cover more than one third of the country's total forest reserves. The per capita income of the CHT is estimated at Tk 14,400 (1992/1993) against the national average of Tk 8,368. The literacy rate among the Chakma, the largest tribal faction, is nearly 60 per cent, which is higher than the national average of 52 per cent. There are more than 92 primary schools per 100,000 people in the area, against about 46 on average in the country. Similarly, there are 22 *thana* health complexes for a million population in the CHT, against 1 *thana* health complex for the same size of population in the rest of the country.
>
> Social policy and administrative measures are also in place in line with constitutional provisions to enable and encourage better access of these minority tribes to the mainstream of national socio-economic and development activities. Special quotas are in place for them in the educational institutions, as well as in the public service.

39. The Minister of Foreign Affairs stressed that although the Hindu, Christian, and Buddhist communities were in a special minority position, they benefited from the same principle of equality accorded to all citizens, including within the administration. The Secretary for the Interior said that Bangladesh did not experience any real difficulties in the area of religion — especially with regard to minorities — as demonstrated, in his view, by the growth of the Christian community (the result of active conversion among the various tribes). The Secretary for the Interior acknowledged that certain incidents did occur. Particular mention was made of the opposition of local Muslim leaders to the extension of an Anglican church in Dhaka. This opposition was motivated more by considerations of land than by religious considerations. Also mentioned were the attacks carried out over the last four years against the Ahmadi, by small political groups seeking to create instability. The Secretary for the Interior felt, however, that any sense of insecurity that might be felt by the country's minority groups was also felt by the majority. The Minister of Religious Affairs noted that the Ahmadis, who were fully recognized as Muslims in Bangladesh, were experiencing national security problems affecting all of Bangladesh. He added that the Government was taking the measures necessary to protect minorities. With regard to the incident at the Saint Francis Xavier Girls' High School in Dhaka (see para. 66), he believed that this was the only case of an attack against church property. He noted that a member of parliament had succeeded in reaching a compromise solution in this matter (which was in fact a land issue), and that the Prime Minister had visited the site (see also the reply by Bangladesh to the communication of the Special Rapporteur with regard to this incident, E/CN.4/1999/58, para. 36). The Secretary for the Interior said that in Bangladesh the main threat in this context was related to poverty, and especially to gender discrimination — both of which were crucial obstacles to development. The Minister considered that the fight against poverty and the improvement of public institutions, particularly legal institutions, and law and order institutions (plagued by a serious corruption problem) were key to the building of a modern society, and thus to the resolution of the various problems (including religious problems) faced by Bangladesh.

40. The Minister of Foreign Affairs stated that there was no real risk of religious extremism in Bangladesh, that the Government was in control of the situation, and that foreign funding of extremist groups, which had stemmed largely from the Middle East, had stopped. A Ministry representative made the point that Bangladesh was acknowledged by all international bodies as a moderate Muslim country that had rejected the religious extremism espoused by certain groups, which were closely watched by society and the State. The Minister of Justice noted that with respect to the use of religion for political purposes, Jamat-e-Islami was a tiny group, which had only three seats in Parliament, and thus did not enjoy the support of society in general, which wished to preserve a democratic, moderate State. The Secretary for the Interior held the view that religious extremists were very much in the minority, and that in any case, their parties were politically marginal. He noted that the activities of Islamic missionary groups funded from abroad were closely monitored by the authorities, as such organizations might prove problematical under certain conditions. With regard to religious extremism, the Minister of Religious Affairs stated that the Government was committed to secularism and, unlike the opposition parties, did not use religion for political purposes. He added that government authorities tried as far as possible to provide protection against extremism, but that they had to be careful not to infringe opposition parties' freedom of expression. The Minister of Justice said that the struggle against extremism required education, while the Secretary for the Interior noted that the democratic process enabled political parties to strengthen themselves, based on the principle of social integration. The Minister of Education believed that religious parties had little impact on society or political life. He said that these parties would be rapidly eliminated, except in cases where such parties formed alliances with other parties. However, he said that these parties could have an influence in certain madrasahs. He also noted that extremism was a global phenomenon, which could affect any country.

41. With regard to women and religion, the Secretary for Women and Children explained that in accordance with the Constitution, the secular State guaranteed equal rights for all and religious rights for every community. The Secretary recalled her Government's efforts to promote the advancement of women, in the light of a social situation that was prejudicial to women. Those efforts included its decision to adopt a national policy for the improvement of the status of women and the formulation of a national plan of action for the implementation of the Beijing Platform for Action. In a voluminous report entitled "Government of the People's Republic of Bangladesh — National Action Plan for Women's Advancement: Implementation of the Beijing Platform for Action," the Special Rapporteur noted the following recommendations with interest:

> Ministry of Land: Ensure equal ownership by women with men over Khas land distributed.
>
> Ministry of Religious Affairs: Review curriculum of imam training from a gender perspective and insert sessions on women's and girls' issues and rights.
>
> Ministry of Youth and Sports: Mobilization of youth of both sexes through youth clubs or other programmes to promote and ensure birth, marriage and death registration; to prevent child marriages and work actively against the practice of dowry.
>
> Ministry of Law, Justice, and Parliamentary Affairs: Strong action to be taken against fatwas being used to victimize women — amend existing laws to prevent discrimination against women.
>
> Local government Division: Enforce registration of all births, deaths and marriages.

42. This plan of action thus identifies problems affecting women and resulting in particular from practices or traditions that are either religious or attributed to religion. We should also note certain passages from Prime Minister Sheikh Hasina's declaration of 8 March 1997, concerning the National Policy for the Advancement of Women:

> Women in Bangladesh have been subjected to exploitation and negligence for decades. In a society that is basically male dominated, women have always been oppressed by religious fanaticism, superstition, oppression and various acts of discrimination. The present Government is determined to bring out the womenfolk from their backward situation by improving their fate. To achieve this objective of the advancement of women, the comprehensive development and empowerment of women is to be ensured.

43. The Secretary for Women and Children noted that in the area of public-sector employment, a quota system had been introduced in favour of women. The Special Rapporteur was told how women's participation in economic life had been increased through credit programmes designed to encourage individual enterprise and managed by the Government and non-governmental organizations. With respect to the participation of women in political life, it was recalled that Bangladesh was the first country in the world in which two women had succeeded each other both as Prime Minister and leader of the parliamentary opposition. Furthermore, in addition to the 300 seats filled by direct suffrage in the constituencies, there were 30 parliamentary seats reserved exclusively for women.

44. With regard to the case of the writer Taslima Nasreen, who had been accused of blasphemy and threatened by Muslim extremists, the Secretary for the Interior said that the police had provided her with protection, and noted that she now lived abroad of her own free will, and was free to return to Bangladesh. He added that the police could guarantee her safety. The Minister of Justice considered that Taslima Nasreen had offended the religious feelings of the people, and noted that this was the only problematical case in a country of 128 million people.

45. With respect to the religious practices of women, the Secretary for Women and Children and her colleagues stated that there was no discrimination in this area. It was explained that women were free to attend mosques, but did not generally do so, and that certain mosques made special arrangements to accommodate women.

46. During his mission, the Special Rapporteur was informed about the Prime Minister's speech to members of the Madrasah Teachers' Association. In a newspaper article entitled "We do not want to use religion for political gains as was done in the past," the Prime Minister reportedly declared that Islam was the religion of welfare, service, peace and humanity, and urged the madrasah teachers to preach Islam to the people in an easy way. She reportedly said that religion was not at all affected during the rule of the present Government and that the government had taken every possible step for the development of Islam, including such projects as the beautification of Baitul Mukarram National Mosque by the construction of towers; an imam training project under the Imam Training Academy; a mass-education programme conducted through different mosques; and provision for some 839 new madrasahs, while 1,156 others are going on (in 2000, the Government has reportedly listed 485 madrasahs for development).

47. The Special Rapporteur would also like to give an account of his consultations with a representative of the Islamic Foundation, an official institution created by the Government in 1975 (Islamic Foundation Act XVII 1975.). The Act creating the Foundation and the Amendment Ordinance of 1985 (Ordinance XXII, 1985) state that the Director-General shall be appointed by the Government, that the Board of Directors shall be constituted by State representatives, such as the Minister of Religious Affairs, and that the Foundation shall be financed partly by public funds. The Foundation, which is listed in its publications as an independent organization, aims to establish, manage and maintain mosques and Islamic mosques and Islamic centres, academies, and institutes; to undertake research on the contribution of Islam to science, culture, politics and civilization; to propagate and assist in propagating the basic Islamic ideals of universal brotherhood, tolerance and justice; to organize and promote studies and research in Islamic history, philosophy, politics, economics, culture, law and jurisprudence; to publish books, periodicals and pamphlets on the above-mentioned topics; to organize conferences, lectures, debates, and symposia on matters relating to mentioned topics; to institute prizes and medals for outstanding contributions in the field of Islamic studies; to award scholarships for Islamic studies; and to manage and develop the Baitul Mukarram National Mosque, and all other mosques which may subsequently come under the management of the Islamic Foundation. The representative of the Islamic Foundation explained that his institution had 64 district offices, 7 Imam Training Academy centres, and 28 Islamic Mission centres (which had trained over 4,000 muballigs and 3,000 maktab teachers). With regard to women, the representative of the Foundation submitted a document entitled "Introduction to Islamic Foundation Bangladesh", which states:

> Islamic Foundation Bangladesh is very aware of the importance of women's role in nation-building activities. Women ought to have due share and ample opportunities in the social and religious spheres of life. Islamic Foundation provides adequate facilities in the Baitul

Mukarram Mosque for women during Eid congregations and other special occasions of national and religious importance. A separate section under the Department of Deeny-Dawat and Culture, which is totally staffed by women, organizes discussions, meetings, seminar-symposia, and other Islamic cultural programmes. Resource persons from amongst distinguished women, visiting female dignitaries, scholars and ladies of high rank speak at these functions exclusively to female audiences. These programmes have a far-reaching impact on women's participation in socio-economic and religious activities and help increase their knowledge of Islam.

The representative of the Foundation considered that, in accordance with the Constitution, every individual was free to practise his or her religion in Bangladesh. He said that Muslim extremists found no support in Bangladesh. With respect to the fatwas declared against women, he noted that they were not real fatwas, since they were not imposed by qualified people.

B. Consultations with non-governmental organizations and independent experts

48. Non-governmental representatives and independent experts consulted by the Special Rapporteur said that State policies generally respected freedom of religion and belief, in the strictest sense of those terms, and also respected their manifestations, within the framework of the limitations provided by the law.

49. Paradoxically, however, it emerged that religious communities — more particularly minorities and ethnic groups, but also Muslims — encounter serious problems. Such problems arise sometimes or regularly, depending on the nature of the case and of the situations involved.

50. According to the non-governmental sources consulted, these problems in fact arise in two main contexts. The first involves relations between the State and religious communities (for example, restricted access for non-Muslims to public-sector employment, and especially to positions of responsibility, notably in the army and the police (see sect. IV.B)); the Vested Property Act, under which the assets of Hindus and the Hurukh/Oroan tribes are stolen (see paras. 30 to 33); and legislation affecting women (see sect. V) and relations between the State and ethnic communities (for example, the delays in the implementation of the Peace Accord concerning the Chittagong Hill Tracts, and serious incidents against members of ethnic communities involving State officials, see sect. IV). The second context involves relations between the State and non-ethnic communities, particularly extremist religious parties. Here, it is glaringly obvious that there is a real and effective threat of religious extremism. That threat stems largely from religious parties such as Jamat-e-Islami, which are very active in their efforts to train Muslims by infiltrating mosques and madrasahs and engaging in political action. This extremism is notably responsible for the climate of insecurity that reigns among non-Muslim minorities, as well as among the Ahmadi Muslim minority community, among ethnic groups and among women, regardless of their religious confession (for example, the problem of the fatwas and the assaults on the physical and moral integrity of women. The fact remains, however, that it is the responsibility of the State that is in question — especially its responsibility to protect its citizens from intolerance and discrimination.

51. According to the non-governmental experts, these problems stem largely from exploitation of the religious domain by political parties seeking either to win or maintain power. It was stressed that extremist religious parties had introduced this practice of exploiting Islam for political purposes, and other parties had followed their lead, becoming caught up in the system. It was pointed out, for example, that the ruling party had — just like the Islamic parties, and notwithstanding its commitment to secularism — organized an electoral campaign employing Islamic symbols such as the Koran and the veil. This phenomenon seems especially worrying because, according to the non-governmental sources consulted, it continues to be used by parties after they are elected into office (Muslim symbols such as the reciting of the Koran remain a very prominent feature of State television and radio broadcasts). Thus, for reasons that are purely electoral, the authorities tend to ensure that their actions do not offend the Muslim majority, and especially their religious feelings, which in itself is a legitimate practice.

52. According to non-governmental representatives, this approach has the effect of rendering the authorities powerless in many areas, leading to inaction. For example, the Government tries to combat religious

extremism while being careful not to offend Muslims, and this is an extremely hazardous process. According to the experts, most of the population, afflicted by poverty and illiteracy, is committed to religion without truly understanding it. This makes is easier (especially for extremists) to manipulate this Muslim population, especially their religious orientation. Evidence of this is provided by the absence of a popular reaction against fatwas and by repeated instances in which extremists have recklessly and violently mobilized crowds against the Ahmadis and non-Muslim minorities (such instances occur during certain international events, such as the Gulf War, or during attempts to impose certain constraints or restrictions on the activities of minorities, to confiscate assets, etc.)

53. Despite the existence of institutions such as the Islamic Foundation, which function as tools for State education of Muslims, the Government's room for manoeuvre is limited, and sometimes reduced to zero, when electoral considerations prevail. According to the non-governmental experts, this explains the secondary importance accorded to minorities, for example with respect to their integration and advancement within State circles, with respect to the provision of adequate financial support for religious activities (religious education, for example) and religious institutions, and with respect to the protection of non-Muslims (intervention by the forces of law and order during attacks against minorities was said to be either half-hearted or non-existent, while action against those responsible was said to be often non-existent or ineffective). According to the non-governmental representatives, the Government's position, cited above, helps to explain the delays in the implementation of the Peace Accord concerning the Chittagong Hill Tracts, as well as the absence of measures designed to eradicate the remaining vestiges of polygamy and end legislation affecting vulnerable groups (minorities and women), or to provide a definitive sanction against the illegal practice of imposing fatwas. It also explains the half-hearted nature of the struggle against extremists responsible for attacks against the Ahmadis. Indeed, the fact that the authorities have recognized the Ahmadi community, despite its rejection as a community within Islam in most Muslim countries, could lead to controversy, fuelled by extremists, among the majority of Bangladesh's Muslim believers and religious officials, who are often poorly educated and traditionalist in their approach to Islam and its interpretations. Development of this very sensitive question might place the authorities in difficulty with respect to the Muslim electorate.

54. Non-governmental sources also noted that these problems could not, of course, be dissociated from difficulties shared by most developing countries, such as the weakness of public institutions and the very difficult economic and social conditions.

C. Consultations with a representative of the Jamat-e-Islami party

55. A senior representative of the Jamat-e-Islami party in Dhaka presented his organization as an Islamic movement similar to that of the "Muslim brothers," in the sense that it was not purely political and aimed to changed society as a whole through democratic means (due to the absence of constraints in Islam) and Islamic means (through social and educational programmes aimed at training Muslims in the principles of Islam for use in both their public and private lives, based on the idea that Islam is a way of life). He explained that Jamat-e-Islami comprised 150,000 grass-roots militants and 12,000 officials distributed among the centre, the districts and the villages, as well as elected emirs and a Shura Council. He noted that his organization was historically linked to Pakistan, during the period when Pakistan included present-day Bangladesh, but that since independence there had been no further organizational links with the Pakistani Jamat-e-Islami. He recalled that his organization had, at the time, opposed Bangladeshi independence, but he rejected any suggestion that it had violated human rights during that period. He stated that Jamat-e-Islami was not an extremist organization, and stressed that it was opposed to all forms of intolerance and violence directed, not only at non-Muslims, but also at Muslims having a different interpretation of Islam. He condemned the use of religion for political purposes, but noted that Islam was not restricted solely to the realm of religious belief. He recalled that since 1976, when the constitutional prohibition of religious parties was lifted, Jamat-e-Islami had been able to resume its activities. He believed that the defeat of his organization in the recent parliamentary elections did not indicate society's rejection of an organization regarded as extremist, and was instead a reflection of the policies — and perhaps incompetence — of those leading Jamat-e-Islami at the time. He said that his organization was subject to political violence (which

was in no way religious in character) on the part of political parties, and that with the help of its education and training activities among the people, the organization's arguments would ultimately prevail, because its cause was just.

IV. Situation regarding religion or belief

56. The following information reflects consultations held with religious representatives, lay officials, and political representatives of the Muslim community as well as of religious and ethnic communities in the Chittagong Hill Tracts.

A. Status of Muslims

57. The Special Rapporteur was anxious to give an account of his consultations with representatives of the Muslim community in Bangladesh. He wishes to make it clear that due to the extraordinary diversity of Islam, there is no single representative of the Muslim faith. Consequently, this report includes accounts of interviews conducted with religious officials in Dhaka and the Chittagong Hill Tracts, as well as with an official from Jamat-e-Islami. It should be noted that within the framework of his consultations with Muslims, the Special Rapporteur has included an account of his interviews with the Ahmadis, since they are fully recognized as Muslims by the Bangladeshi authorities. Of course, even the views of all the interviewees mentioned do not represent those of all Muslims in Bangladesh. They do, however, offer insight into the status of Muslims. These views are complemented by consultations with the authorities, non-governmental organizations, and independent experts, which are reflected in the section of this report dealing with politics in the area of religion and belief (sect. III). Reference might also be made to the interviews conducted among representatives of religious minorities and ethnic communities and, lastly, to the information provided about the status of women (see below).

58. Secretary Mowlana Aminul Islam, of the Lalbagh Shahi mosque, a representative consulted at the suggestion of the Imam of Dhaka, said that Bangladesh was a country characterized by religious harmony and universal freedom. He pointed out that minority groups — particularly Christian, Buddhist, and Hindu — were not victims of incidents of any kind, and said that Muslim extremism did not exist in Bangladesh. With respect to the Ahmadis, he said that they were not Muslims because they believed that Muhammad was the last of the prophets. However, he stated that the Ahmadi community was free to practise its religion, provided that they did not express their views in public, as this would cause problems among Muslims. With respect to the practice of Islam, he expressed his satisfaction at its importance in Bangladesh, particularly with regard to Friday prayers. He added that there were not enough mosques for all the faithful. He stated that there was one mosque that accepted women in Dhaka, and also said that in his view mosques were not places for women. With regard to Taslima Nasreen, he said that she was a mad woman, who had not been properly educated (that is, she was ignorant of Islam), and noted that a Muslim woman should not have behaved as she had. He concluded by saying that the return of Taslima Nasreen to Bangladesh would cause public anger, but that it would not be possible to kill her.

59. The imam consulted by the Special Rapporteur in Rangamati said that the status of Muslims in the Chittagong Hill Tracts was satisfactory, and that Islam was spreading fast in the region. He noted that the Muslim community had 40 mosques in Rangamati, but that there were places where the mosques were not large enough to hold all the assembled faithful, who were obliged to worship in the streets. He said that the mosques were forbidden to women and that Rangamati did not have a mosque able to accommodate them. He added that religious training was provided at four madrasahs, which were largely State funded.

60. The Ahmadi representatives described the status of their community, which is fully recognized as a Muslim community by the State of Bangladesh. They said that they were not hindered by the authorities and did not encounter tensions within society. However, they did stress the danger of Muslim religious extremism, which is fuelled from abroad, and has had an impact on their community in recent years. Particular mention was made of the January 1999 attacks that took place in the village of Koldiar, in Kushtia, against an Ahmadi place of worship and against Ahmadi worshippers; the explosion of a bomb at an Ahmadi place of worship in Khulna, on 8 October 1999, which killed several worshippers; the discovery of two bombs in the main Ahmadi mosque in Dhaka,

on 10 October 1999; and the attacks against an Ahmadi place of worship at Natore on 12 November 1999. The Ahmadi representatives believed that these events were directly linked to the actions of Muslim extremists who considered their community as heretical. Furthermore, they deplored the fact that in the majority of cases, the response of the forces of law and order was passive and/or ineffective. They believed that this response reflected the authorities' fear that efforts to combat extremists would translate into losses among the Muslim electorate.

61. The representative of Jamat-e-Islami in Dhaka said that there were no religious restrictions in Bangladesh, and that the constitutional recognition of Islam as a State religion had changed nothing, especially since there was a Muslim majority in Bangladesh. With regard to the Ahmadis, he recalled that Muslim communities — notably the Sunni and Shiite communities — had concluded that the Ahmadis were not Muslims. He said that Ahmadis had the right to exist as a community, but questioned whether they had a right to exist as a religious community. He rejected any suggestion that Jamat-e-Islami was responsible for the attacks on Ahmadi places of worship, attributing the attacks to religious fanatics, and even to the Ahmadis themselves. He said that his organization did not harass Muslims who had converted to another religion. He condemned the use of fatwas by unqualified persons. With regard to Taslima Nasreen, he said that the people's reactions to her were spontaneous and justified, and that those reactions had not been organized by Jamat-e-Islami. He stressed that it was wrong to insult a religion in the name of freedom of expression, but noted that the Taslima Nasreen affair had been blown up out of all proportion. He explained that Jamat-e-Islami had no objection to devout Christians or to a minority of Christians with whom common ground could be found. He rejected any allegation that Jamat-e-Islami was involved in attacks on Christians. With regard to Buddhists and Hindus, he said that these communities should be respected.

B. Situation with regard to religious minorities

1. Buddhist minority

62. The representatives of the Buddhist community said that they were able to practise their religion without interference from the authorities. However, they said that their community was in an unsatisfactory situation. With regard to the teaching of their religion in public schools, they lamented the fact that the State did not always make enough Buddhist teachers available to meet student demand. They described the looting and destruction of temples, as well as the harassment of Buddhist monks and other Buddhists by Muslim extremist groups. In this context, they deplored the absence of a genuine police reaction. They also said that Buddhists suffered discrimination with respect to public-sector jobs (there were very few Buddhists in the civil service, and Buddhists very rarely held positions of responsibility, despite the fact that they possessed the required qualifications and experience). Finally, they noted that most Government funds allocated to Buddhists were now allocated to ethnic communities of Buddhist confession in the Chittagong Hill Tracts.

2. Christian minority

63. Bangladesh's Christian minority comprises all the main Christian denominations, especially Catholicism and Protestantism, but also many others (around 50 denominational churches, mission bodies, and other gospel-centred organizations). The Special Rapporteur was able to interview Anglican and Catholic religious officials.

(a) Anglican community

64. The representatives of the Anglican Church said that the Government did not present obstacles in the area of religious affairs. However, they did describe difficulties encountered by foreign missionaries in their attempts to win converts among Muslims (difficulties that could even lead to expulsion), as well as difficulties encountered by all Muslims converting to Christianity. They thought that their community's situation should be improved. They wished to see an end to discrimination against Christians with respect to access to public sector employment, including access to police and army jobs. They said that Muslims (with the exception of the liberal and secular elite, who

favoured religious harmony) regarded them with suspicion. This was due to several factors, such as stereotypes representing Christians as anti-Muslim (because of the Crusades), an extremely restrictive civil society, and the absence of any real interchange between the Christian and Muslim communities, especially in urban environments. Because of this suspicion — which in their view was rooted in ignorance and intolerance of others — Muslim officials had, for example, opposed plans to extend a Dhaka church, on the grounds that Anglican hymns were too noisy (this, despite the fact that mosques used loudspeakers for prayer). However, the Anglican officials stressed that extremist Muslim groups were responsible for manipulating the uneducated Muslim population, against Christians. As a result, Christians were accused of being agents of an "anti-Islam" West — particularly during certain international events. For example, it was recalled that during the Gulf War, the Anglican church in Old Dhaka had been attacked by a crowd of Muslims trained by extremists.

(b) Catholic community

65. The Catholic officials said that they were not subject to Government interference. However, they noted that the situation for Catholics was not entirely without difficulties. The officials said that despite constitutional guarantees concerning freedom of religion and religious practice, it was not possible in practice to engage in conversion activities among the Muslim population. They added that any Muslim converting to another religion — as a result of a mixed marriage, for example — was forced to go into hiding, and even to leave Bangladesh, in order to avoid public condemnation. With regard to the teaching of religion in public schools, the officials lamented the fact that the authorities did not, in practice, recruit Christian teachers, even though there were enough Christian students to justify such recruitment. Indeed, it was pointed out that Muslim, and sometimes Hindu, teachers were in charge of Christian teaching, even though they were not qualified to do so. Because of this, the Catholic Church organized Christian teaching at its own institutions, outside normal school hours. However, the Catholic officials said that this was not the best solution, as it excluded students who could not pay the cost of transporting them to the Catholic

66. With regard to places of worship, it was pointed out that extremist Muslim groups often opposed the use of bells and loudspeakers for hymns. This hostility could even be translated into acts of violence during certain international events, such as the Gulf War, which were immediately interpreted by extremists as attacks by the West against Islam. It was explained that on such occasions, extremists would take it upon themselves to train crowds of Muslims, urging them to commit acts of destruction or looting against places of worship belonging to the Christian community, which would be accused of working on behalf of an "anti-Muslim" West. The officials deplored the passive, even complicit approach taken by the police in such situations. The officials noted that even beyond specific international events, there was a strong current of anti-Christian activism. For example: on 28 April 1998, the Saint Francis Xavier's Girls High School suffered attack, looting, and damage to property at the hands of a crowd of Muslims. They had been spurred on by extremists using mosque loudspeakers to accuse the Catholic authorities (falsely, as they well knew) of having destroying the mosque (see communication by the Special Rapporteur, E/CN.4/1999/58, para. 36). The incident was part of a conflict over boundaries, and the extremists were seeking to oppose renovation work being carried out on a Catholic Church property adjacent to a mosque. It was again noted that during these serious incidents, the forces of law and order remained largely passive. The Catholic officials also lamented the fact that, due to electoral considerations, the Prime Minister had not responded to their request for a public condemnation of such attacks or to their request for symbolic reparations. They also noted that legal decisions in favour of the Catholic Church, concerning the use of their property, had not been applied, because extremist Muslims had opposed their application on a variety of grounds. The officials also wished to see an end to discrimination against Christians in the area of public-sector jobs, especially positions of responsibility. The officials expressed the wish that Christian nationals be able to enjoy all the rights deriving from their Bangladeshi citizenship.

3. Hindu minority

67. The Hindu representatives said that they were

They stressed the insecurity felt by Hindus, due partly to the Vested Property Act, which was used for the illegal appropriation of their land, especially by Mafia-like groups enjoying political protection. They also described the vulnerability of the Hindu community, which suffered the condemnation of crowds incited by Muslim extremists during certain international events (for example, temples were destroyed, Hindus murdered and Hindu women raped following the destruction of the mosque at Ayodhya, India, in 1992). They also noted the insecurity felt by Hindu women, who were often victims of harassment and rape carried out by criminal elements of society, without the police properly exercising their functions of protection and suppression. They said that that all these various offences had driven Hindus from Bangladesh (they noted that, according to the 1991 census, the number of Hindus had declined by 0.3 per cent since 1974). They called for State assistance in the restoration of temples that, in their view, constituted part of the nation's heritage. The temples in question were those at Chandranath, Langal bandh, Mahaprabhu, Dacca Dashkia, Para Tirtha, and Adwaita Prabhu. Lastly, they called for an end to discrimination against Hindus with respect to public-sector jobs and positions of responsibility, including army and police jobs.

C. Religious situation of the ethnic communities of the Chittagong Hill Tracts

68. The Special Rapporteur would like to point out that the Constitution does not formally recognize ethnic communities as ethnic minorities or indigenous populations. However, in her 1999 speech to the Hague Appeal for Peace Conference, she referred specifically to the question of the Chittagong Hill Tracts and to the right of an indigenous people — an ethnic, religious, cultural, linguistic and social minority — to preserve their own identity, culture, tradition and values. The Special Rapporteur's consultations with the authorities and with representatives of ethnic communities focused on the status of indigenous populations in the Chittagong Hill Tracts — especially their religious status. Analysis of this highly complex question is necessary for the reasons cited above, in the extract from the Prime Minister's speech: the issue is the religious. Thus, in order to analyze the situation of the ethnic communities of the Chittagong Hill Tracts, we should look briefly at the origins of the conflict that has characterized this region; at the Peace Accord of 1997; and at the implementation of that Accord.

69. As far as the origin of the conflict is concerned, non-governmental sources (particularly ethnic communities) noted that under the British administration, the Chittagong Hill Tracts had enjoyed a special autonomous status under which the sale or transfer of land to non-indigenous populations was prohibited. After Pakistan gained independence in 1947, the region lost that special status, particularly as a result of a constitutional amendment introduced in 1963. The Government authorized and encouraged the settling of non-indigenous populations in the Chittagong Hill Tracts, as well as the transfer of land ownership and other resources to non-indigenous populations. The Government also decided to exploit the hydroelectric potential of the Chittagong Hill Tracts, with the construction of the Kaptai Dam between 1957 and 1963. As a result of this project, a substantial portion of the region's agricultural land (most of which belonged to the Chakma) disappeared, and around 100,000 indigenous people were displaced. Non-governmental sources said that because project rehabilitation measures were inadequate, some 40,000 indigenous people migrated to India at that time. This policy was pursued after Bangladesh gained independence, despite the demands made in 1972 by indigenous people for the restoration of the Chittagong Hill Tracts' special status. From that point onward, land-related conflicts between the indigenous people and the newly arrived Bengalis (virtually all of whom were Muslim, unlike the indigenous population, which was largely non-Muslim) represented a source of conflict with the Government. The military solution chosen by the Government led to violence, especially after 1980, between the armed forces, associated with the new Bengali population, and the indigenous people, especially the organization Chattagram Jana Samhati Samiti (PCJSS) and its armed division, Shanti Bahini. The various attempts made by the Bangladeshi Government to resolve the conflict ultimately led to the Peace Accord of 2 December 1997.

70. The Accord provides for the setting up of a

members must be elected from among the indigenous population of the Chittagong Hill Tracts (with each community being allocated a certain quota), and one-third from among the region's non-indigenous population. The President of the Council must be a member of the indigenous population, and holds the rank of Minister of State. The Council must have powers of supervision and coordination in areas such as law and order, general administration, traditional law and social justice, as well as development activities. A land Commission must also facilitate regulation of land-related conflicts — especially those related to the restoration of property stolen from the indigenous population. The Accord also provides for the granting of an amnesty to members of the Shanti Bahini and the PCJSS; for the rehabilitation of indigenous refugees and displaced persons (especially through the Land Commission); for withdrawal from temporary military camps and village defence camps; and for the creation of a Ministry for the Chittagong Hill Tracts, assisted by a consultative committee (comprising the Minister of the Chittagong Hill Tracts, the President/representative of the Regional Council and each district council, three members of parliament for the Chittagong Hill Tracts, three leaders of indigenous communities, and three non-indigenous members who are permanent residents of the Chittagong Hill Tracts).

71. With respect to implementation of the Accord, all indigenous community representatives consulted by the Special Rapporteur lamented the obstacle, and the delays that had been built up. Doubts had even been expressed as to whether the Government genuinely desired to make the Accord succeed. Of primary concern in this context was the fact that the Government had not transferred to the Regional Council the majority of the powers provided for under the Accord, thus rendering the Council inoperative. As a result, the Government continued to administer the Chittagong Hill Tracts directly (through its local representatives, the Deputy Commissioner and the army). Mention was also made of the delay in the setting up of the Land Commission (two and a half years) and in the return of land; the fact that a large part of the military presence had been maintained; and the fact that rehabilitation of displaced persons and refugees was still incomplete. It was further noted that Bengalis continued to be settled in the Chittagong Hill [illegible] which had not been planned by

provided by local authorities (distribution of food rations and allocation of housing) and Muslim extremists. Because of the lack of arable land in the Chittagong Hill Tracts, it was stated that apart from the Bengalis who were settled during the British period, and the few Bengalis who had settled legally, the rest of the Bengali population should return their land to the indigenous population and be resettled outside the region. It was explained that this was a precondition for any reconciliation between the authorities and the Bengalis, because the land was key to the survival and identity of the indigenous peoples in the region, and the essential and fundamental means for guaranteeing their survival and identity.

72. Apart from the issue of the implementation of the Peace Accord, with respect to the situation of indigenous peoples in the field of freedom of religion, most of those consulted said that they had been able to practise their religious activities freely since the end of the armed conflict. It was also mentioned that the army had stopped destroying indigenous places of worship. However, many representatives of the indigenous community described how they had been traumatized by the incident of 16 October 1999. Following an altercation between indigenous people of the Jumma tribe, which had arisen after a Bengali soldier had molested a Jumma woman, the army — assisted by around 150 Bengali civilians — attacked the Jumma of Babu Chara Bazar at Dighinala Thana/Khagrachari, leading to the deaths of three members of the indigenous population. The assailants also proceeded to sack the Buddhist temple of Benuban, attacked monks, and damaged statues of the Buddha. Even though a commission of enquiry had been set up, and some victims compensated, this particular incident had created a genuine feeling of insecurity among lay and religious members of the indigenous community in the Chittagong Hill Tracts, who were faced with an army and a police force consisting entirely of Muslim Bengalis. Those consulted also explained that their communities were subject to covert pressure from Islamic non-governmental organizations, and even Muslim extremist groups seeking to convert them to Islam, notably in return for services or money. Certain representatives interpreted the financial assistance provided by the State for the construction of new madrasahs and mosques as a discriminatory policy favouring Islam, since, in contrast, indigenous religious institutions receive[illegible] public [illegible]

73. Mr. Shantu Larma, one of the main spokespersons for the ethnic communities in the Chittagong Hill Tracts, and President of the Regional Council, said that the failure to implement the Peace Accord, as well as the incidents reported above, threatened the survival of the cultural and religious identity of indigenous populations. He noted that between 1947 and the present, the Bengali Muslim population in the Chittagong Hill Tracts had risen from 2.7 per cent to 50 per cent, and called upon the UN to persuade the Bangladeshi Government to grant the independence necessary for the preservation of indigenous populations, their culture, traditions, and religion, and thereby to ensure full implementation of the 1997 Accord.

V. Status of women

74. The information provided below reflects the Special Rapporteur's consultations with non-governmental organizations either representing women or working for their emancipation, and with experts. By way of comparison, reference might be made to the information supplied by the authorities (see sect. II.B and III.A).

75. Non-governmental representatives stressed that the status of women in Bangladesh was problematical in terms of individual human rights. Most of those interviewed recognized that government action programmes had made possible a certain amount of progress — notably the adoption of laws and other legal provisions in favour of women. In this regard, it was stressed that the status of women in Bangladesh was not entirely comparable to that of women in certain Muslims countries -particularly countries of the Middle East. However, the representatives mentioned the limited impact of the advances referred to above, and also described conditions that were detrimental to women, in numerous areas that were not fully, effectively, or efficiently covered by government action.

76. Special mention was made of the difficulties involved in implementing legislation protecting women's rights, particularly in rural areas, largely because of traditions — notably religious traditions or those attributed to religion. For example, it was explained that legislation on the registration of marriages and the minimum age for marriage [illegible] minors to marry (aimed mainly at preventing all extramarital sexual relations, which are subject to cultural and religious prohibitions). According to some non-governmental estimates, around 800,000 minors were married without their consent every year. These marriages involving minors (which are illegal under positive law) are not, of course, registered by the authorities, as required under the law on the registration of marriages. It has also been estimated that many marriages, including those involving women of legal adult age, were not registered. This was especially the case in rural areas, due either to the fact that people were not informed about the requirement to register, or to certain illegal practices on the part of officials who demanded money for the registration of marriages. This apparently widespread situation of non-registration of marriages is especially harmful because it encourages the practice of repudiation, and thus reveals the limited implementation of divorce laws. Despite the existence of the Anti-Dowry Prohibition Act, this situation also helps to maintain the tradition of the dowry, thereby placing women in the humiliating position of being objects of bargaining. This practice also contributes to the vulnerability of wives, who are sometimes victims of violence on the part of their husbands concerning goods inherited or due to be handed down by the parents to the married women. According to non-governmental sources, 239 women were subject to dowry-related violence in 1998. Of those victims, 60 per cent were murdered, and three per cent committed suicide. Many wives apparently suffered acid attacks — a practice that appears to be widespread within the context of dowry-related conflicts.

77. Experts stressed the Government's inaction with respect to polygamy. They said that current legislation authorizing polygamy whenever permission had been granted by the first wife was wholly contrary to human rights and to the dignity of women. While recognizing that the practice of polygamy was very limited (estimates say it occurs in one out of every 60 marriages) — mainly due to economic factors and changing attitudes — they called for the practice to be prohibited by law.

78. With respect to the difficulties involved in implementing the aforementioned legislation, it was stressed that these obstacles were especially serious because they favoured religious personal laws, which

were regarded as often discriminatory with regard to Muslim women and women of other faiths.

79. With regard to Muslim women, it was noted that the 1961 Muslim Family Ordinance was favourable to women, especially in the areas of marriage and inheritance. With respect to divorce, it was explained that reform had made it possible, through the Muslim Marriages and Divorces (Registration) Act of 1974, to guarantee certain rights to Muslim women (3-months' advance notice and the right to appeal to the courts; mandatory registration of divorce; pension; etc.). However, it was stressed that these advances were being undermined, notably by the practice of repudiation, and especially in rural areas, because many marriages were not registered.

80. The status of women seems to be especially problematical with regard to the Hindu minority. Mention was made of religious personal laws governing the Hindu community, sources of discrimination in the area of inheritance, divorce, and childcare. According to non-governmental representatives, these laws do not recognize any right of inheritance for women with respect to parental property. This discrimination does in fact encourage the practice of the dowry, and hence the related violations mentioned above. Furthermore, according to non-governmental experts, these religious personal laws make no provision for the registration of Hindu marriages and deny women any right to divorce. According to these same interviewees, since 1956 — despite protests from women's organizations —, governments have refused to amend religious personal laws in favour of the rights of Hindu women, despite the fact that the same reform has been introduced for Muslims. Unfortunately, the Special Rapporteur was not able to gather information about the status of women from other minorities, within the framework of their religious personal laws.

81. The experts also described acts of discrimination against women in the area of religious practice. It was noted that whereas most mosques in urban areas were forbidden to women (there were a few rare places of worship where special facilities had been provided, allowing women access to mosques), in rural areas, virtually all Muslim places of worship were reserved exclusively for men. Reference should also be made to the statements made by Muslim religious officials in Dhaka and Rangamati (see sect. IV.A).

82. These acts of discrimination against women in Bangladesh, whatever their religious affiliation, were attributed by the various non-governmental sources to traditions (especially religious traditions or those ascribed to religion) as well as to the preservation of a patriarchal system. In this respect, the fact that some women held key positions in Bangladesh was not considered to reflect the overall situation in the country. According to non-governmental sources, women's access to these "positions of power" was in fact limited, and dependent upon membership of powerful families.

83. In addition to this symbolic violence of discrimination, experts described physical violence against women, noting that the two forms of violence were often linked. They denounced not only violence associated with the practice of the dowry, but also violence related to fatwas. These fatwas, declared in the name of the Muslim religion, are especially common in rural areas. They are declared against women who are accused — almost always wrongly — of having sexual relations outside marriage, and other behaviour subject to social and religious prohibition. In fact, however, these fatwas are declared by people who are not qualified to do so — namely, by *Shalish* Councils, members of the local clergy having a superficial or flawed religious education, local officials, extremists, or individuals enjoying the tacit support of extremist parties. Experts said that the fatwas declared by these officials were in fact designed to stifle any efforts to emancipate women. For example, women's access to work was thought to undermine roles regarded as the exclusive preserve of women and restricted to the private sphere of the family, enabling women to participate actively in public life. Such developments were regarded — especially in rural areas — as a threat to the patriarchal structure of society, and therefore to men's monopolization of power. This was the reason why the fatwas were accompanied by attacks carried out by extremists against certain Bangladeshi non-governmental organizations, which were very active in promoting women's rights. According to information provided by non-governmental sources, 43 fatwas were declared against women in 1993, and 26 in 1999. The most famous case was, of course, that of Taslima Nasreen, who was forced to flee Bangladesh after receiving death threats from extremists. However, one might also mention the case of 17-year-old Noorjahan, who on 10 January 1993, at Moulvibazar, was a victim

of a fatwa declared by the imam of the mosque, who accused him in respect of a second marriage, and sentenced him to 101 lashes. As a result of the fatwa, Noorjahan committed suicide. Following his death, and as a result of action taken by non-governmental organizations working on behalf of women and human rights, the culprit was brought to justice. These fatwas, which are entirely illegal, are especially serious because as punishment the accused are often flogged, stoned, or shunned by society. The fatwas thus constitute attacks on the physical and moral integrity of women. According to non-governmental sources, those responsible for these fatwas are usually not pursued by local officials responsible for enforcing the law. Fatwas issued by non-State actors also represent a threat to the Government's efforts on behalf of women and to women's empowerment — notably in the area of education.

84. The Special Rapporteur feels duty bound to note that the local authorities sometimes convey a very conservative, and sometimes obscurantist image of women. One senior official stated quite frankly to the Special Rapporteur that according to his interpretation of Islam, women did not belong inside mosques, that a man should not shake a woman's hand, and that in private life — including within the family — all mixing of the sexes outside marriage should be avoided (including mixing between fathers and daughters).

85. Furthermore, the experts noted that women from minorities and ethnic communities were vulnerable to violence from outside their communities. According to these experts, Hindu, Buddhist, and Christian women were obliged to endure a climate of insecurity, due to an increased risk that they would be assaulted (notably in the form of sexual harassment and rape). This increased risk stemmed from the repercussions, within Bangladesh, both of international events concerning their community (for example, the anti-Hindu attacks — which included a significant number of rapes — during the Ayodhya episode in India), and/or of the so-called honour question. With respect to the latter question, it appears to be established and common practice that attempts to subject, or commit violations against minorities and ethnic communities should take the form of threats, or actual assaults (in this instance rape) on the honour of women, who represent the honour of the whole community. This occurs, for example, within the context of conflicts, for the appropriation of property, etc. With regard to ethnic populations, during his consultations in the Chittagong Hill Tracts the Special Rapporteur was informed by non-governmental representatives of numerous cases of attacks against the physical and moral integrity of women from ethnic populations, committed by the armed forces and non-ethnic Muslim populations during the period of armed conflict. With respect to the period since the Peace Accord, emphasis was given to the incident of October 1999, which was so traumatic for the ethnic communities of the Chittagong Hill Tracts (see para. 72).

86. In addition to the various factors described above (traditions — notably religious traditions or those attributed to religion; cultural, social and religious taboos), non-governmental representatives lamented the fact that school textbooks did not convey a positive image of women, despite the efforts of UNICEF, in particular. Mention was also made of the especially harmful role of Muslim extremists. Indeed, it was considered that Muslim extremists profited from a difficult socio-economic system, under which most people sought refuge in religion, but were, unfortunately, guided by religious officials who were often incompetent, and/or close to extremists. It was further pointed out that the absence of girls and women as students and teachers within the madrasahs conveyed a message that was unfavourable to women and contrary to enlightened religious education.

VI. Conclusions and recommendations

87. In formulating the following conclusions and recommendations concerning legislation, politics, and the situation with regard to religion and belief, the Special Rapporteur has paid particular attention to the status of women.

88. With regard to legislation, the Special Rapporteur considers that constitutional measures guarantee freedom of religion and belief and their manifestations, in accordance with relevant international law. Furthermore, the Constitution guarantees the principle of non-discrimination, especially with respect to religion and gender. With regard to the constitutional recognition of Islam as the State religion, the Special Rapporteur would like to recall that, under international law, a State, or official religion is not in itself contrary to human rights. However, this fact — which indeed is enshrined within the Bangladeshi Constitution — must not be exploited at the expense of

the human rights of minorities or rights that derive from citizenship and imply non-discrimination between citizens, based on, among other things, considerations of faith and belief. The question of the treatment accorded to minorities will be considered below.

89. With regard to other legal provisions, the penal code protects freedom of religion or belief and their manifestations. Penalties are notably provided in the case of all offences against religion, such as the destruction of places of worship and religious objects, disturbance of religious activities (for example, religious ceremonies), desecration, and defamation of religions.

90. With respect to religious personal laws, problems of compatibility arise, not only with regard to national legislation (the Constitution), but also with regard to international law. Religious personal laws do discriminate against women, and therefore undermine the constitutional principle of equality for all, regardless of gender or religious affiliation. Efforts certainly have been made in this regard, but they have been limited to certain areas and communities, such as the reform of 1974, which made it possible to guarantee certain rights under the law to Muslim women, in the area of divorce. These advances must be pursued, and extended to all problem communities and spheres (inheritance, marriage, childcare, etc.). For example, Hindu women must be given the legal right to divorce and inheritance. The Special Rapporteur noted with pleasure the initiatives undertaken in the realm of positive law, with a view to improving the protection of women, such as the adoption of laws on the registration of marriage and divorce, the minimum age for marriage, and the banning of the dowry system. These initiatives must be pursued, and efforts must be made to ensure their concrete implementation, especially in rural areas, in order to combat religious traditions or traditions attributed to religion, which perpetuate, among other practices, the illegal practice of forcing minors into marriage. Also in the context of these initiatives, it is imperative that a legal ban on polygamy be introduced.

91. Concerning the Vested Property Act, it is of urgent importance that the process of formulating and adopting new legislation in this area reach a successful conclusion. However, it is essential to ensure that the Hindu community and the Hurukh/Oroan tribes (who are the main victims of this law) be consulted, and included in this exercise, and that their right to property be fully restored to them, notably through the return of stolen property and through compensation. In any event, and in a general sense, the Government must take the appropriate measures — including legal measures — to ensure that the right to property be protected and guaranteed for all, regardless of religious or ethnic affiliation. This point is especially important due to the combination of Bangladesh's difficult economic situation and its very high population density, as a result of which land is a rare and highly sought after resource, and hence a source of conflict.

92. With regard to the influence of the politic sphere on religion and belief, the Special Rapporteur considers that the State does, in general, respect freedom of religion and belief and their manifestations, in accordance with international human rights standards in this area. The authorities permit religious practice, the building of places of worship, religious instruction, journeys abroad by religious officials, the maintaining of contacts with adherents of the same religion living abroad, etc. Similarly, the State provides public funding to different religious communities, and recognizes religious festivals as national festivals that may have the status of holidays. Generally speaking, the State does not interfere in the religious affairs (in the strictest sense of the term) of religious communities. It should be stressed that no religious community is subject to a prohibition on the part of the authorities. The Ahmadis, who are not recognized as an Islamic religious community in many Muslim countries, are recognized as Muslims by the State of Bangladesh, and may exercise their religious activities in complete freedom (notably, they may build their mosques). Thus, from this point of view, the situation is in fact entirely satisfactory.

93. Furthermore, while recognizing Islam as the State religion, the State declares its commitment to secularism and religious harmony, whether with regard to the Muslim majority, religious minorities, or ethnic communities.

94. However, the situation of religious and ethnic communities is not without its problems. Nevertheless, it should first be noted that in Bangladesh, one cannot talk in terms of the repression of these communities. Another point that should be stressed is the complexity of the various situations. The obstacles, intolerance, and discrimination that can affect religious and ethnic communities are due to a combination of several factors: especially political and religious factors, but

also economic and religious factors, such as poverty, illiteracy, and the weight of tradition. It is clear that poverty is the primary and crucial problem in Bangladesh, to the extent that all the other problems can seem secondary in comparison. However, while bearing in mind the economic and social context in Bangladesh, which is common to all developing countries, it seems that the key common denominator with regard to the problems described is the exploitation of religion by the political sphere.

95. Although historically, one of the founding principles of Bangladesh was non-interference in religion and politics, constitutionally recognized through the principle of secularism and the ban on religious parties, these principles have gradually been undermined, especially during military coups d'état. The Constitution was amended by military leaders in order to establish Islam as the State religion. Their intention was to exploit the Muslim majority's commitment to Islam, in order to legitimize their hold on power. This measure also facilitated the return of those who had originally opposed Bangladeshi independence. Jamat-e-Islami, a religious party generally regarded as extremist. The restoration and legitimization of this party effectively sanctioned the politicization of the religious sphere, to the detriment of the State, society, and hence all religious communities. The exploitation of Islam within the political sphere in fact allowed extremists — including Jamat-e-Islami — to gain parliamentary representation, and led other parties to employ a similar strategy. Thus, despite its commitment to secularism, the party presently in power used religious symbols such as the Koran and the veil during the last electoral campaign. Despite its Government's progressivism in declaring itself in favour of religious harmony, religious and ethnic diversity, and the demarginalizing of vulnerable groups, including women, and in negotiating a Peace Accord in the Chittagong Hill Tracts, the Government now seems to be trapped by its purely electoral strategy of incorporating religion into the political sphere.

96. First of all, the State appears more sensitive to the interests of Muslims. For non-Muslim minorities and ethnic groups, this is reflected especially in obstacles encountered with respect to access to public-sector jobs, especially positions of responsibility, weaker financial support for the religious institutions of these communities, and the teaching of their religion in public schools. This approach also appears to be the reason for the delays in full implementation of the Peace Accord in favour of the ethnic communities of the Chittagong Hill Tracts.

97. Also, the State appears to be powerless, or at least weakened, in its efforts to combat religious extremism, to the detriment of Muslims, minorities, and women. Indeed, apparently for fear of offending the religious feelings of the majority — who are often poor and illiterate, and have a superficial and traditional knowledge of religion — the authorities do not appear to be earnest in their efforts to combat the harmful effects of religious extremism. Thus, a climate of insecurity affects the Ahmadis, religious minorities, and women of all faiths, due to sporadic, but traumatic attacks against Ahmadi and non-Muslim institutions (particularly places of worship), the stealing of land (especially Hindu land), or attempts to appropriate assets illegally; threats against women; or fatwas declared against Muslims. In the face of these attacks, which are organized and/or encouraged by extremists, the State does not appear to be playing its role of suppression or its role of prevention. In the majority of cases, during attacks against Ahmadis and minorities, intervention by the forces of law and order is questionable, because officers often either do nothing or are slow to offer assistance. Furthermore, those responsible are rarely identified or pursued. The Special Rapporteur would, however, like to pay tribute to the attention brought by the Government to the problem represented by fatwas in the context of its National Action Plan for Women's Advancement, and would encourage the Government to implement its recommendation aimed at combating the practice of the fatwa.

98. For the reasons outlined above, the State also seems to be at a standstill with regard to all those initiatives that are regarded as unpopular, but are necessary in terms of human rights, such as the re-examination of the Vested Property Act, the adoption of legislation in favour of women, notably the reform of religious personal laws and the abolition of polygamy, as well as measures (including through sanctions) to implement laws on the registration of marriages and divorce and the minimum age for marriage.

99. It is vital that Bangladesh combat religious extremism, which constitutes a real danger. Although extremists — in particular the Jamat-e-Islami party — do not hold many seats in Parliament, they nonetheless

remain very active in terms of educating or attempting to provide guidance to Muslims, especially through the mosques and madrasahs and the Islamic non-governmental organizations providing assistance to the most destitute members of society. There is clearly intolerance — especially on the part of religious officials, and sometimes even on the part of local authorities. This is glaringly evident from the fatwas and the restrictions imposed upon Muslim women in their practising of religion (such as the ban on women in mosques). These public-sector actors do, and can exert a real and harmful influence over the Muslim majority, which is easily manipulated. This is shown by the absence of a popular reaction against the fatwas and the social boycotting of the fatwa victims, as well as the manipulation of the crowds in the attacks against minorities. These actions threaten to undermine an entire process of evolution achieved within society as a whole — a process marked by progressive and enlightened thinking. In particular, these actions threaten to undermine the emancipation of marginalized groups, such as women, promoted by the Government, notably through various related legislative initiatives and action programmes.

100. While recalling that, in general, State policy respects freedom of religion or belief and their manifestations, and is not opposed to religious and ethnic communities or designed to oppress women, the Special Rapporteur has formulated the following recommendations with regard to the problems described above.

101. First of all, the Special Rapporteur recommends that religion be protected from all forms of political exploitation, since such exploitation is detrimental to both the political and religious spheres, and hence to the State, society, and, more especially, to religious and ethnic communities and to women.

102. The Special Rapporteur therefore recommends that the State combat extremism, which is essentially simplistic and obscurantist.

103. In this regard, it is important that any direct or indirect involvement of extremists in attacks against Ahmadis, minorities, ethnic communities, and women be systematically pursued in the courts and combated, notably through education.

104. It is also vitally important that the State take the necessary measures to protect the mosques and madrasahs from all efforts at indoctrination on the part of extremists, so that places of prayer, contemplation and religious education do not become instruments of intolerance, discrimination, or hatred.

105. The Special Rapporteur also recommends that the State implement a policy of prevention, and especially to pursue its efforts in the area of education and to broaden those efforts into a genuine culture of human rights. This education policy must in particular address religious officials, who must receive more rigorous training. This means it must teach a perfect understanding of Islam, its diversity, and its values of tolerance, and train religious officials to respect other religions and faiths, as well as in the principles of human rights, non-discrimination, and tolerance, especially with regard to women. This education policy must also address the rest of society, and especially Bangladesh's future citizens (its pupils and students). In this respect, it is recommended that the State revise its primary-school textbooks and curricula, in order to ensure that the religious and ethnic diversity of Bangladesh are reflected in such a way that each religion is presented in an objective manner, and in order to promote the values of tolerance and non-discrimination. This education policy should help ensure that the values of tolerance and non-discrimination become fixed in the people's minds, and remove socio-religious interdicts and taboos such as those affecting women and the mixing of religions (for example, marriages between people of different religions, and conversions — especially conversions from Islam to another faith). It is also important that the Government pay particular attention to what is actually being taught in the madrasahs, and to what is being practised in the madrasahs on a day-to-day basis.

106. The Special Rapporteur recommends that the State take appropriate measures to ensure that the media are open to the religious and ethnic pluralism of Bangladesh, and that it therefore educate the population in the virtues of celebrating diversity.

107. The measures recommended above with respect to suppression and prevention must make it possible to confront the development of extremism and, notably, to protect Bangladesh from the consequences of this scourge, which is rampant around the world, including in Asia. In particular, they must also make it possible to combat political exploitation of religion by extremists, and the tendency for this practice to be taken up by other, non-extremist (and especially secular) parties.

108. The Special Rapporteur also recommends that the State be more aware of the legitimate claims of minorities and ethnic communities.

(a) To this end, it is essential that members of these communities be given access — without hindrance or discrimination, and in accordance with the constitutional principle of equality — to public-sector jobs, and especially to positions of responsibility. The Special Rapporteur recommends that positive-discrimination measures (which are recognized, moreover, under Article 29 b) of the Constitution) be taken by the Government with regard to the recruitment and promotion of members of minorities and ethnic communities, especially within the police and the army. It is also recommended that civil service entrance-examination boards and those responsible for career development should include non-Muslim members. Everything must be done to ensure that members of minorities and ethnic communities are treated as full citizens, that their concerns are properly addressed, and that they are able to enjoy all their rights and contribute towards the general interest.

(b) The State must also examine, with complete objectivity, the needs of minorities and ethnic communities, especially with regard to the funding of religious institutions and religious training. It must also ensure that the public funds allocated are sufficient and distributed equally among all communities (Muslim and other faiths) with a view to encouraging tolerance and non-discrimination.

(c) The security of minorities and ethnic communities — especially of religious institutions — must be fully and effectively guaranteed by the State.

(d) Concerning, in particular, the ethnic communities of the Chittagong Hill Tracts, while bearing in mind the complexity of the situation and stressing the essential contribution of the Government in the 1997 Peace Accord (for which the Prime Minister received the UNESCO peace prize), the Special Rapporteur encourages the authorities to apply this Accord fully, and as rapidly as possible. Enormous difficulties certainly do exist, such as the resettlement of Bengalis outside the Chittagong Hill Tracts, which seems to be a very difficult enterprise. However, this Accord is fundamental for the survival of the ethnic communities of the Chittagong Hill Tracts and the preservation of their ethnic, religious, and cultural identity. As demonstrated by the incident of October 1999, implementation of this Accord is an absolutely fundamental precondition for any process of reconciliation and for peace.

109. The Special Rapporteur further recommends that efforts be made to develop dialogue between the country's different religions — certainly among leaders of each community, but above all at the local level, and especially in urban areas, among adherents of all the various religions. Their involvement in joint religious programmes, for example, is strongly encouraged.

110. Finally, the Special Rapporteur encourages present initiatives aimed at establishing a national commission for human rights, while recommending that such a commission conform to the Paris principles, and that its members should include not only women, but also non-Muslims.

111. The Special Rapporteur recommends, lastly, that Bangladesh — which deserves the understanding and support of the international community — benefit from the technical cooperation and consultancy services of the United Nations Commission on Human Rights. This will enable Bangladesh to receive assistance in the implementation of some of the above recommendations, especially with regard to education and to indigenous minorities and populations.

112. The Special Rapporteur believes that these recommendations are fully compatible with Government policies aimed at the development of Bangladesh, and in particular those policies concerned with the struggle against poverty, social and economic equalities, and the demarginalizing of vulnerable groups, including women. Indeed, implementation of these measures can help toward the development of Bangladesh, which is a priority objective with respect to the implementation of all human, economic, social and cultural, and civil and political rights, to be enjoyed by all, regardless of religious or ethnic affiliation.